



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXV
April 16, 2003

NUMBER 21
Pages 1357 to 1400

CONTENTS IN THIS ISSUE

Pages 1368 to 1397 include **ARC 2403B** to **ARC 2427B**

ALL AGENCIES

Schedule for rule making	1360
Publication procedures	1361
Administrative rules on CD-ROM	1361
Agency identification numbers	1366

CITATION OF ADMINISTRATIVE RULES 1359

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Notice, Community economic betterment program, 53.2, 53.11 to 53.17 ARC 2403B	1368
Notice, Public records and fair information practices, ch 169 ARC 2404B	1369

EDUCATIONAL EXAMINERS BOARD[282] EDUCATION DEPARTMENT[281]"umbrella"

Notice, Hearing procedures—designating who may initiate a complaint, 11.4(1) ARC 2417B	1375
Notice, Hearing procedures—designating who shall prosecute complaints, 11.21(3) ARC 2416B	1376
Notice, Correction of a license, 14.107 ARC 2418B	1376
Notice, Clarification of names for licenses, 14.110, 14.115 to 14.118, 14.121(5), 14.131 ARC 2419B	1377
Notice, School psychologist endorsement, 15.3(8) ARC 2421B	1378

EMERGENCY MANAGEMENT DIVISION[605] PUBLIC DEFENSE DEPARTMENT[601]"umbrella"

Notice, Iowa comprehensive plan, ch 9 ARC 2422B	1379
Filed Emergency, Iowa comprehensive plan, ch 9 ARC 2424B	1390

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella" Filed, Registration of waste tire haulers, ch 116 ARC 2414B	1394
--	------

HUMAN SERVICES DEPARTMENT[441]

Notice, Disputed county billings, ch 15 ARC 2415B	1380
---	------

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella" Filed, Adoption by reference—federal occupational safety and health record-keeping regulations, 4.3 ARC 2420B	1394
--	------

PHARMACY EXAMINERS BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella" Notice, Time period for internship experience to be valid for licensure; board-approved and recognized college of pharmacy certification limited to U.S. institutions, 2.4, 2.5, 2.12(5), 2.16 ARC 2410B	1381
Notice, Noncontrolled substances prescriptions, 6.9(2), 6.16(4) ARC 2409B	1382
Notice, Authorization of pharmacy to include normal saline for irrigation in emergency drug supply for use of home health agency or hospice personnel, 22.9(5) ARC 2408B	1383
Notice, Grounds for disciplinary action, 36.1(4) ARC 2407B	1383
Filed Emergency After Notice, Correction of cross reference, 6.15(3) ARC 2427B	1390
Filed Emergency, Correction of cross references, 9.4"3," 9.5(3)"b" ARC 2426B	1391

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella" Notice, Colleges for chiropractic physicians, ch 42 ARC 2413B	1383
Notice, Massage therapists, 131.1, 131.2(6); ch 132; 133.3(2), 135.1(10) ARC 2412B	1385
Notice, Athletic trainers, 350.6, ch 353 ARC 2411B	1387

PUBLIC HEARINGS

Summarized list	1362
-----------------------	------

PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Economic Impact Statements to proposed rules and filed emergency rules; Objections filed by Administrative Rules Review Committee, Governor or the Attorney General; and Delay by the Committee of the effective date of filed rules; Regulatory Flexibility Analyses and Agenda for monthly Administrative Rules Review Committee meetings. Other “materials deemed fitting and proper by the Administrative Rules Review Committee” include summaries of Public Hearings, Attorney General Opinions and Supreme Court Decisions.

The Bulletin may also contain Public Funds Interest Rates [12C.6]; Workers’ Compensation Rate Filings [515A.6(7)]; Usury [535.2(3)“a”]; Agricultural Credit Corporation Maximum Loan Rates [535.12]; and Regional Banking—Notice of Application and Hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.

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Capitol Building
Des Moines, IA 50319
Telephone: (515)281-3568

SECRETARY OF STATE[721]

Filed Emergency, Local option sales tax
elections—addition of new ballot form,
21.801(1) **ARC 2423B** 1391

TREASURER OF STATE

Notice—Public funds interest rates 1389

TRANSPORTATION DEPARTMENT[761]

Filed, Regulations applicable to carriers,
520.1(1), 520.2 **ARC 2405B** 1394

Filed, For-hire interstate motor carrier
authority, 529.1 **ARC 2406B** 1396
Filed Emergency, Removal of obsolete
cross reference; renewal of driver's license
earlier than one year prior to license
expiration date for active military
personnel, 605.25, 607.37 **ARC 2425B** 1392

CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC
(chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication
date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

Schedule for Rule Making 2003

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Jan. 3 '03	Jan. 22 '03	Feb. 11 '03	Feb. 26 '03	Feb. 28 '03	Mar. 19 '03	Apr. 23 '03	July 21 '03
Jan. 17	Feb. 5	Feb. 25	Mar. 12	Mar. 14	Apr. 2	May 7	Aug. 4
Jan. 31	Feb. 19	Mar. 11	Mar. 26	Mar. 28	Apr. 16	May 21	Aug. 18
Feb. 14	Mar. 5	Mar. 25	Apr. 9	Apr. 11	Apr. 30	June 4	Sept. 1
Feb. 28	Mar. 19	Apr. 8	Apr. 23	Apr. 25	May 14	June 18	Sept. 15
Mar. 14	Apr. 2	Apr. 22	May 7	May 9	May 28	July 2	Sept. 29
Mar. 28	Apr. 16	May 6	May 21	May 23	June 11	July 16	Oct. 13
Apr. 11	Apr. 30	May 20	June 4	June 6	June 25	July 30	Oct. 27
Apr. 25	May 14	June 3	June 18	June 20	July 9	Aug. 13	Nov. 10
May 9	May 28	June 17	July 2	July 4	July 23	Aug. 27	Nov. 24
May 23	June 11	July 1	July 16	July 18	Aug. 6	Sept. 10	Dec. 8
June 6	June 25	July 15	July 30	Aug. 1	Aug. 20	Sept. 24	Dec. 22
June 20	July 9	July 29	Aug. 13	Aug. 15	Sept. 3	Oct. 8	Jan. 5 '04
July 4	July 23	Aug. 12	Aug. 27	Aug. 29	Sept. 17	Oct. 22	Jan. 19 '04
July 18	Aug. 6	Aug. 26	Sept. 10	Sept. 12	Oct. 1	Nov. 5	Feb. 2 '04
Aug. 1	Aug. 20	Sept. 9	Sept. 24	Sept. 26	Oct. 15	Nov. 19	Feb. 16 '04
Aug. 15	Sept. 3	Sept. 23	Oct. 8	Oct. 10	Oct. 29	Dec. 3	Mar. 1 '04
Aug. 29	Sept. 17	Oct. 7	Oct. 22	Oct. 24	Nov. 12	Dec. 17	Mar. 15 '04
Sept. 12	Oct. 1	Oct. 21	Nov. 5	Nov. 7	Nov. 26	Dec. 31	Mar. 29 '04
Sept. 26	Oct. 15	Nov. 4	Nov. 19	***Nov. 19***	Dec. 10	Jan. 14 '04	Apr. 12 '04
Oct. 10	Oct. 29	Nov. 18	Dec. 3	Dec. 5	Dec. 24	Jan. 28 '04	Apr. 26 '04
Oct. 24	Nov. 12	Dec. 2	Dec. 17	***Dec. 17***	Jan. 7 '04	Feb. 11 '04	May 10 '04
Nov. 7	Nov. 26	Dec. 16	Dec. 31	Jan. 2 '04	Jan. 21 '04	Feb. 25 '04	May 24 '04
Nov. 19	Dec. 10	Dec. 30	Jan. 14 '04	Jan. 16 '04	Feb. 4 '04	Mar. 10 '04	June 7 '04
Dec. 5	Dec. 24	Jan. 13 '04	Jan. 28 '04	Jan. 30 '04	Feb. 18 '04	Mar. 24 '04	June 21 '04
Dec. 17	Jan. 7 '04	Jan. 27 '04	Feb. 11 '04	Feb. 13 '04	Mar. 3 '04	Apr. 7 '04	July 5 '04
Jan. 2 '04	Jan. 21 '04	Feb. 10 '04	Feb. 25 '04	Feb. 27 '04	Mar. 17 '04	Apr. 21 '04	July 19 '04

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
23	Friday, April 25, 2003	May 14, 2003
24	Friday, May 9, 2003	May 28, 2003
25	Friday, May 23, 2003	June 11, 2003

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
FROM: Kathleen K. Bates, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses QuickSilver XML Publisher, version 1.5.3, to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

bruce.carr@legis.state.ia.us and
kathleen.bates@legis.state.ia.us

2. Alternatively, you may send a PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, Third Floor West, Ola Babcock Miller Building, or included with the documents submitted to the Governor's Administrative Rules Coordinator.

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies, but not on the diskettes; diskettes are returned unchanged.

Your cooperation helps us print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

IOWA ADMINISTRATIVE RULES and IOWA COURT RULES on CD-ROM

2002 WINTER EDITION

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Iowa Administrative Bulletins (July 2002 through March 5, 2003)
Iowa Court Rules (updated through February 2003)

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To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)“b” by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

CEBA—modernization project component, 53.2, 53.11 to 53.17 IAB 4/16/03 ARC 2403B	Northwest Conference Room Second Floor, 200 E. Grand Ave. Des Moines, Iowa	May 6, 2003 2 p.m.
Public records and fair information practices, ch 169 IAB 4/16/03 ARC 2404B	Northwest Conference Room Second Floor, 200 E. Grand Ave. Des Moines, Iowa	May 6, 2003 3 p.m.

EDUCATIONAL EXAMINERS BOARD[282]

Initiation of complaints by DOT, 11.4(1) IAB 4/16/03 ARC 2417B	Conference Room 1 North, First Floor Grimes State Office Bldg. Des Moines, Iowa	May 13, 2003 3:30 p.m.
Legal representation, 11.21(3) IAB 4/16/03 ARC 2416B	Conference Room 1 North, First Floor Grimes State Office Bldg. Des Moines, Iowa	May 13, 2003 4 p.m.
Correcting licenses, 14.107 IAB 4/16/03 ARC 2418B	Conference Room 1 North, First Floor Grimes State Office Bldg. Des Moines, Iowa	May 13, 2003 2:30 p.m.
Clarification of conditional licenses, 14.110, 14.115 to 14.118, 14.121(5), 14.131 IAB 4/16/03 ARC 2419B	Conference Room 1 North, First Floor Grimes State Office Bldg. Des Moines, Iowa	May 13, 2003 2 p.m.
School psychologist endorsement, 15.3(8) IAB 4/16/03 ARC 2421B	Conference Room 1 North, First Floor Grimes State Office Bldg. Des Moines, Iowa	May 13, 2003 1:30 p.m.

EDUCATION DEPARTMENT[281]

Attendance centers, ch 19 IAB 4/2/03 ARC 2399B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	April 22, 2003 1 p.m.
Community college faculty, 21.3 IAB 4/2/03 ARC 2398B (ICN Network)	Second Floor Grimes State Office Bldg. Des Moines, Iowa	April 25, 2003 3 to 4 p.m.
	Rm. 115, Industrial Tech. Bldg. NICC, 1625 Hwy 150 South Calmar, Iowa	April 25, 2003 3 to 4 p.m.
	Room 139, NICC-1 10250 Sundown Rd. Peosta, Iowa	April 25, 2003 3 to 4 p.m.
	Room 106, Activity Center NIACC, 500 College Dr. Mason City, Iowa	April 25, 2003 3 to 4 p.m.

EDUCATION DEPARTMENT[281] (Cont'd)
(ICN Network)

Room 22, Library Bldg. ILCC, 300 S. 18th St. Estherville, Iowa	April 25, 2003 3 to 4 p.m.
Room 818, Arthur and Audrey Smith Wellness Center ILCC, 3200 College Dr. Emmetsburg, Iowa	April 25, 2003 3 to 4 p.m.
Room 410, Building D NCC-2, 603 W. Park St. Sheldon, Iowa	April 25, 2003 3 to 4 p.m.
Room 204, Library Bldg. Arrowhead AEA, 330 Ave. M Fort Dodge, Iowa	April 25, 2003 3 to 4 p.m.
Room 16, ICCC 916 N. Russell Storm Lake, Iowa	April 25, 2003 3 to 4 p.m.
Reg Johnson Hall 105 Ellsworth Community College 1100 College Ave. Iowa Falls, Iowa	April 25, 2003 3 to 4 p.m.
Room 806, Continuing Education Ctr. IVCCD-1, 3702 S. Center St. Marshalltown, Iowa	April 25, 2003 3 to 4 p.m.
Room 110, Tama Hall HCC-1, 1501 E. Orange Rd. Waterloo, Iowa	April 25, 2003 3 to 4 p.m.
Room 300, Kahl Educational Ctr. EICCD-1, 326 W. Third St. Davenport, Iowa	April 25, 2003 3 to 4 p.m.
Room 60, Larson Hall Muscatine Community College 152 Colorado St. Muscatine, Iowa	April 25, 2003 3 to 4 p.m.
Room 203B, Linn Hall KCC-2, 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	April 25, 2003 3 to 4 p.m.
Room 8, Bldg. 6 DMACC, 2006 S. Ankeny Blvd. Ankeny, Iowa	April 25, 2003 3 to 4 p.m.
Room 925, Bldg. A WITCC-1, 4647 Stone Ave. Sioux City, Iowa	April 25, 2003 3 to 4 p.m.
Looft Hall IWCC-1, 2700 College Rd. Council Bluffs, Iowa	April 25, 2003 3 to 4 p.m.
Room 211, Instructional Ctr. SWCC-1, 1501 W. Townline Rd. Creston, Iowa	April 25, 2003 3 to 4 p.m.

EDUCATION DEPARTMENT[281] (Cont'd)
(ICN Network)

Room 107, Advanced Technology Ctr. IHCC-1, 525 Grandview Ave. Ottumwa, Iowa	April 25, 2003 3 to 4 p.m.
Room 503, North Campus/Trustee Hall SECC-1, 1500 W. Agency Rd. West Burlington, Iowa	April 25, 2003 3 to 4 p.m.

EMERGENCY MANAGEMENT DIVISION[605]

Iowa comprehensive plan, ch 9 IAB 4/16/03 ARC 2422B (See also ARC 2424B herein)	Conference Room, Level A Hoover State Office Bldg. Des Moines, Iowa	May 7, 2003 10 a.m.
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HUMAN SERVICES DEPARTMENT[441]

Disputed county billings, ch 15 IAB 4/16/03 ARC 2415B	First Floor Southeast Conference Room Hoover State Office Bldg. Des Moines, Iowa	May 8, 2003 9 to 11 a.m.
Medicaid reimbursement methodology for hospital inpatient and outpatient services, 79.1(5), 79.1(16) IAB 4/2/03 ARC 2392B	First Floor Southwest Conference Rm. Hoover State Office Bldg. Des Moines, Iowa	April 24, 2003 10 to 11 a.m.
Accountability measures for non-state- owned nursing facilities, 81.6(16) IAB 4/2/03 ARC 2391B	First Floor Southwest Conference Rm. Hoover State Office Bldg. Des Moines, Iowa	April 24, 2003 9 to 10 a.m.

INSURANCE DIVISION[191]

Unfair trade practices, amendments to ch 15 IAB 4/2/03 ARC 2364B	330 Maple St. Des Moines, Iowa	April 24, 2003 10 a.m.
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NATURAL RESOURCE COMMISSION[571]

Wildlife violator compact, 15.13 IAB 4/2/03 ARC 2388B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	April 22, 2003 2 p.m.
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PERSONNEL DEPARTMENT[581]

IPERS, 21.4, 21.6(9), 21.8(5), 21.11, 21.24(18) IAB 4/2/03 ARC 2367B	7401 Register Dr. Des Moines, Iowa	April 22, 2003 9 a.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Colleges for chiropractic physicians, ch 42 IAB 4/16/03 ARC 2413B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	May 13, 2003 9 to 11 a.m.
Massage therapists, 131.1, 131.2(6), ch 132, 133.3(2), 135.1(10) IAB 4/16/03 ARC 2412B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	May 8, 2003 9 to 11 a.m.
Athletic trainers, 350.6, ch 353 IAB 4/16/03 ARC 2411B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	May 8, 2003 1 to 3 p.m.
Dietitians, 80.6, 81.6, ch 83 IAB 4/2/03 ARC 2370B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	April 23, 2003 9 to 11 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Volunteer health care provider program, 88.1 to 88.3, 88.11, 88.12(1), 88.13(3) IAB 4/2/03 ARC 2381B	Room 517, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa	April 22, 2003 10 to 11 a.m.
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RACING AND GAMING COMMISSION[491]

Definition of "conviction"; quarter horse time trial races, 4.4(3), 6.1, 6.2(1), 6.5(1), 10.6(19) IAB 4/2/03 ARC 2363B	Suite B 717 E. Court Des Moines, Iowa	April 22, 2003 9 a.m.
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UTILITIES DIVISION[199]

Customer service rules revisions, 6.2, 6.3(3), 6.5(2), 19.4, 20.4 IAB 4/2/03 ARC 2378B	Hearing Room 350 Maple St. Des Moines, Iowa	May 28, 2003 10 a.m.
Alternate energy production, amendments to ch 15; 20.9(2) IAB 3/5/03 ARC 2329B	Hearing Room 350 Maple St. Des Moines, Iowa	May 16, 2003 10 a.m.
Revisions required pursuant to Executive Orders 8 and 9, amendments to chs 19 to 21, 35, 36 IAB 4/2/03 ARC 2387B (See also ARC 2284B , IAB 2/5/03)	Hearing Room 350 Maple St. Des Moines, Iowa	May 9, 2003 1 p.m.

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Agricultural Development Authority[25]

Soil Conservation Division[27]

ATTORNEY GENERAL[61]

AUDITOR OF STATE[81]

BEEF INDUSTRY COUNCIL, IOWA[101]

BLIND, DEPARTMENT FOR THE[111]

CAPITAL INVESTMENT BOARD, IOWA[123]

CITIZENS’ AIDE[141]

CIVIL RIGHTS COMMISSION[161]

COMMERCE DEPARTMENT[181]

Alcoholic Beverages Division[185]

Banking Division[187]

Credit Union Division[189]

Insurance Division[191]

Professional Licensing and Regulation Division[193]

Accountancy Examining Board[193A]

Architectural Examining Board[193B]

Engineering and Land Surveying Examining Board[193C]

Landscape Architectural Examining Board[193D]

Real Estate Commission[193E]

Real Estate Appraiser Examining Board[193F]

Savings and Loan Division[197]

Utilities Division[199]

CORRECTIONS DEPARTMENT[201]

Parole Board[205]

CULTURAL AFFAIRS DEPARTMENT[221]

Arts Division[222]

Historical Division[223]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

City Development Board[263]

Iowa Finance Authority[265]

EDUCATION DEPARTMENT[281]

Educational Examiners Board[282]

College Student Aid Commission[283]

Higher Education Loan Authority[284]

Iowa Advance Funding Authority[285]

Libraries and Information Services Division[286]

Public Broadcasting Division[288]

School Budget Review Committee[289]

EGG COUNCIL, IOWA[301]

ELDER AFFAIRS DEPARTMENT[321]

EMPOWERMENT BOARD, IOWA[349]

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

EXECUTIVE COUNCIL[361]

FAIR BOARD[371]

GENERAL SERVICES DEPARTMENT[401]

HUMAN INVESTMENT COUNCIL[417]

HUMAN RIGHTS DEPARTMENT[421]

Community Action Agencies Division[427]

Criminal and Juvenile Justice Planning Division[428]

Deaf Services Division[429]

Persons With Disabilities Division[431]

Latino Affairs Division[433]

Status of African-Americans, Division on the[434]

Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]

INFORMATION TECHNOLOGY DEPARTMENT[471]

INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]
NATIONAL AND COMMUNITY SERVICE, IOWA COMMISSION ON[555]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PERSONNEL DEPARTMENT[581]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
 Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Substance Abuse Commission[643]
 Professional Licensure Division[645]
 Dental Examiners Board[650]
 Medical Examiners Board[653]
 Nursing Board[655]
 Pharmacy Examiners Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE AND FINANCE DEPARTMENT[701]
 Lottery Division[705]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS COMMISSION[801]
VETERINARY MEDICINE BOARD[811]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ARC 2403B**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 53, "Community Economic Betterment Program," Iowa Administrative Code.

The proposed amendments establish a new modernization project component as authorized by 2002 Iowa Acts, chapter 1041, section (2g). The amendments describe the eligibility requirements, application process and rating system for projects that assist in retooling or upgrading production equipment to meet contemporary technology standards.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on May 6, 2003. Interested persons may submit written or oral comments by contacting Ken Boyd, Bureau of Business Finance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4810; E-mail ken.boyd@ided.state.ia.us.

A public hearing to receive comments about the proposed amendments will be held on May 6, 2003, at 2 p.m. at the above address in the Northwest Conference Room on the second floor.

These amendments are intended to implement Iowa Code section 15.313(2)"g."

The following amendments are proposed.

ITEM 1. Amend rule **261—53.2(15)** by adding the following **new** definition in alphabetical order:

"Modernization project" means an economic activity that is performed by a business to retool or upgrade production equipment to meet contemporary technology standards and that results in improving existing employees' job skills to enhance competitiveness for future growth and development.

ITEM 2. Adopt the following **new** rule **261—53.11(15)** and renumber existing rules **261—53.11(15)** through **261—53.16(15)** as **261—53.12(15)** through **261—53.17(15)**:

261—53.11(15) Modernization project component. The general program policies described in rule **261—53.6(15)** are applicable to modernization projects. Exceptions to these general rules are identified in this rule. If there is a conflict between the general program policies and the modernization project component requirements as described in this rule, this rule will take priority. Applications must receive a minimum of 60 points to be recommended for funding.

53.11(1) Additional criteria and targeting for modernization projects. Modernization projects shall meet the following additional requirements:

a. Applications for this component must be for businesses with projects that offer a quality economic opportunity to Iowans.

b. References to wage level requirements in subrule 53.6(1) do not apply to modernization projects, and all such

references are specifically modified as follows: Modernization projects shall pay at least 100 percent of the average county wage.

c. The business shall demonstrate that it is modernizing and retooling to remain competitive.

d. The business shall demonstrate how employee job skills are being enhanced through advanced training and educational opportunities.

53.11(2) Applications. Businesses applying for assistance under this component shall use the general business financial assistance application form provided by the department. The department may, at its option, transfer requests to a different financial assistance program administered by the department.

53.11(3) Project period. Projects funded under this component are considered to have up to a maximum five-year project period.

53.11(4) Rating system. Eligible applications will be reviewed and rated using the following criteria:

a. Strength of the business proposal. Factors to be considered include, but are not limited to, the following:

(1) Description of the business and the overall industry;
(2) Description and feasibility of the modernization project;

(3) Market identification and the business's current position in that market;

(4) Project financial history and projections;

(5) Total cost of the modernization project.

Maximum—25 points.

b. Job positions associated with the project. Factors to be considered include, but are not limited to, the following:

(1) Increase in job skills as a result of the project as measured by job training and educational opportunities;

(2) Increased quality of the wages and benefits as a result of the project;

(3) Number of jobs impacted by the project.

NOTE: For the modernization project component, CEBA funds will not be leveraged on a per-job basis.

Maximum—25 points.

c. Leverage of other additional funding sources. The amount of the total project costs coming from sources other than CEBA modernization funds including, but not limited to, private equity investment, conventional loans, owner equity investment, or other acceptable forms of investment as determined by the department. Maximum—15 points.

d. Regional financial support. The amount of the total project costs attributable to regional funding sources including, but not limited to, city, county, community college, chamber of commerce, economic development groups, utilities, or other regional sources, compared to the resources reasonably available from those sources. Maximum—15 points.

e. Potential for improved efficiency, capacity and competitiveness of the business. Maximum—10 points.

f. Potential for future growth of the business and the industry. Maximum—10 points.

53.11(5) Application review and approval.

a. Awards of \$250,000 or less. For awards of \$250,000 or less, department staff will review and rate applications and prepare funding recommendations for the director. The director of the department has the authority to approve CEBA modernization project awards in an amount up to and including \$250,000.

b. Awards over \$250,000. For awards over \$250,000, department staff will review and rate applications and present its recommendations to the committee. The committee will present its recommendations to the board. The board

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

will have final decision-making authority. The board may approve, reject, table, defer or refer an application to another funding source.

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ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to rescind Chapter 169, “Public Records and Fair Information Practices,” Iowa Administrative Code, and adopt a new Chapter 169 with the same title.

To implement Executive Order Number 8, signed by Governor Vilsack in 1999, the Department evaluated its administrative rules to determine if there were rules that needed to be amended or rescinded. In IDED’s Rules Assessment Report, Chapter 169 was identified as a chapter that needed to be amended. The existing chapter incorporates by reference the Uniform Rules on Agency Procedure concerning Public Records and Fair Information Practices and notes the Department’s exceptions to the standard rules. The existing chapter is difficult to understand in its current form because only the exceptions and amendments are included.

The proposed rules combine the Uniform Rules on Agency Procedure that are currently incorporated by reference with the Department’s rules which identify the exceptions and amendments to these rules. The intended result is one chapter that implements all the applicable statutory requirements regarding public records procedures and fair information practices. In addition, the chapter has been updated to reflect the description of the categories of records maintained by the Department, to revise procedures by which the public may access public records (both paper files and electronic records), and to identify applicable fees such as those charged for searching, supervising, and copying records.

Public comments concerning the proposed amendment will be accepted until 4:30 p.m. on May 6, 2003. Interested persons may submit written or oral comments by contacting Melanie Johnson, General Counsel, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4862; E-mail: melanie.johnson@ided.state.ia.us.

A public hearing to receive comments about the proposed amendment will be held on May 6, 2003, at 3 p.m. at the above address in the Northwest Conference Room on the second floor.

These rules are intended to implement Iowa Code chapters 17A and 22.

The following amendment is proposed.

Rescind 261—Chapter 169 and adopt the following new chapter in lieu thereof:

CHAPTER 169 PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

261—169.1(17A,22) Statement of policy, purpose and scope of chapter.

169.1(1) The purpose of this chapter is to facilitate public access to open records. It also seeks to facilitate department determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. The agency is committed to the policies set forth in Iowa Code chapter 22; agency staff shall cooperate with members of the public in implementing the provisions of that chapter.

169.1(2) This chapter does not:

- a. Require the agency to index or retrieve records which contain information about individuals by that person’s name or other personal identifier.
- b. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
- c. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the rules of another agency.
- d. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs.
- e. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.
- f. Require the agency to create, compare or procure a record solely for the purpose of making it available.

261—169.2(17A,22) Definitions. As used in this chapter: “Agency” means the Iowa department of economic development.

“Confidential record” in these rules means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“Custodian” in these rules means the director of the Iowa department of economic development or the director’s designee.

“Open record” in these rules means a record other than a confidential record.

“Personally identifiable information” in these rules means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

“Record” in these rules means the whole or a part of a “public record,” as defined in Iowa Code section 22.1, that is owned by or in the physical possession of this agency.

“Record system” in these rules means any group of records under the control of the agency from which a record may

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

261—169.3(17A,22) Requests for access to records.

169.3(1) Location of record. A request for access to a record should be directed to the Director's Office, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309. If a request for access to a record is misdirected, agency personnel will promptly forward the request to the appropriate person within the agency.

169.3(2) Office hours. Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays and legal holidays.

169.3(3) Request for access to open records.

a. Requests for access to open records may be made in writing, in person, electronically, or by telephone.

b. Mail or telephone requests shall include the name, address, telephone number, and the E-mail address (if available) of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

c. For all requested records, the person making the request shall set forth all available information that would assist in locating the records.

d. The request shall set out the maximum search fee the requester is prepared to pay. If the maximum search fee is reached before all the requested records have been located and copied, the requester shall be notified and asked for further directions before the search proceeds.

169.3(4) Response to requests.

a. Timing. Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. Advance requests to have records available on a certain date may be made by telephone or correspondence. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Records will be produced for inspection at the earliest date possible following the request. Records should be inspected within ten business days after notice is given that the records have been located and are available for inspection. After ten business days, the records will be returned to storage and additional costs may be imposed for having to produce them again.

b. Reasonable delay. Access to an open record may be delayed for one of the purposes authorized by:

(1) Iowa Code section 22.8(4), which includes good faith delay to seek an injunction or determine if the agency is entitled to seek an injunction; for the agency to determine if the public records are confidential; to determine if the confidential record should be made available (a reasonable delay for this purpose shall not exceed 20 calendar days and ordinarily should not exceed 10 business days); or

(2) Iowa Code section 22.10(4) (civil enforcement).

c. Notice to requester. The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

d. Denial of access to records. The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is

limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 169.4(17A,22) and other applicable provisions of law.

e. Federal requirements. The agency administers several federal programs and is authorized by Iowa Code section 22.9 to enforce confidentiality standards from federal law and regulations as are required for receipt of federal funds. Access to records covered by federal confidentiality requirements will not be permitted to the extent that examination or copying of such records would cause the denial of federal funds, services or essential information from the U.S. government that would otherwise be available to the agency.

169.3(5) Security of record. No person may, without permission from the custodian, search or remove any record from agency files. Examination and copying of agency records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization. Individuals will not be given access to the area where the records are kept and will not be permitted to search the files.

169.3(6) Copying. A reasonable number of copies of an open record may be made in the agency's office. If photocopy equipment is not available in the agency office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

169.3(7) Access to records for examination and copying.

a. Location. As specified in Iowa Code section 22.3, the agency will provide a suitable place for examination of public records. If it is impracticable to do the work at the agency's office at 200 East Grand Avenue, Des Moines, Iowa, the person desiring to examine or copy shall pay all necessary expenses of providing a place for the work. All expenses of the work shall be paid by the person desiring to examine or copy the records.

b. Paper files. Hard copies of public records will be made available for examination and copying.

c. Electronic files. The agency will take reasonable steps to provide on-site access to electronically stored public records. To the extent the agency's technology permits, electronic records, including E-mail, will be made available through a secure, on-site computer terminal. If a requester prefers, copies of electronic records located during a records search will be provided and copying fees will apply.

d. Data processing software. Reserved.

e. Tapes. Public records maintained in the form of cassette, videotape or similar form are available for public examination. Upon request, copies of tapes will be made available, and the individual requesting the tape will bear all actual costs of copying.

f. Mixed records. If a record contains both public and confidential information, the agency will remove the confidential material before making it available for examination or copying. For paper files, a copy of the original will be made and the confidential material will be marked out. Copying fees will apply. For electronic files, if the agency is technologically able to block access to fields containing confidential materials, records will be made available as described in paragraph 169.3(7) "c" above.

169.3(8) Fees.

a. When charged. The agency may charge fees in connection with the examination, search, retrieval, restoration or copying of records. To the extent permitted by applicable provisions of law, the payment of fees may be waived in the case of small requests of ten or fewer copies when the im-

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

position of fees is inequitable or when a waiver is in the public interest.

b. Copying, faxing and postage costs. Price schedules for published materials and for photocopies of records supplied by the agency shall be prominently posted in agency offices. Copies of records may be made by or for members of the public on agency photocopy machines or from electronic storage systems at cost as determined and posted in agency offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester. Actual costs to fax a document may also be charged to the requester.

c. Search and supervisory fee. An hourly fee may be charged for actual agency expenses in searching for, and supervising the examination and copying of, requested records when the time required is in excess of one hour. The fee shall be based upon the pay scale of the employee involved and other actual costs incurred. The agency shall post in agency offices the hourly fees to be charged in routine cases for search and supervision of records. The agency shall give advance notice to the requester if it will be necessary to use an employee with a higher hourly wage in order to find or supervise the examination and copying of particular records in question, and shall indicate the amount of that higher hourly wage to the requester.

d. Computer-stored information. All costs (including staff time) for retrieval, restoration and copying of information stored in electronic storage systems will be charged to the requester.

e. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

261—169.4(17A,22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 169.3(17A,22).

169.4(1) Proof of identity. A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

169.4(2) Requests. The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

169.4(3) Notice to subject of record and opportunity to obtain injunction. After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom

notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

169.4(4) Request denied. When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

a. The name and title or position of the custodian responsible for the denial; and

b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to the requester.

169.4(5) Request granted. When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

261—169.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order to refuse to disclose that record to members of the public.

169.5(1) Persons who may request. Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order authorizes the custodian to treat the record as a confidential record may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

169.5(2) Request. A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the agency by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

169.5(3) Failure to request. Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the agency does not request that it be withheld from public inspection under Iowa Code sections 22.7(3) (trade secrets), 22.7(6) (advantage to competitors), 22.7(18) (communications not required by law, rule, procedure or contract), the custodian of records containing that information may pro-

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

ceed as if that person has no objection to its disclosure to members of the public.

169.5(4) Timing of decision. A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

169.5(5) Request granted or deferred. If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

169.5(6) Request denied and opportunity to seek injunction. If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

261—169.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. Requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the custodian. The request to review such a record or the written statement of such a record of additions, dissents, or objections must be dated and signed by the requester, and shall include the current address and telephone number of the requester or the requester's representative.

261—169.7(17A,22) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for

such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed (and, where applicable, the time period during which the record may be disclosed). The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. Appearance of counsel before the agency on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the agency to disclose records about that person to the person's attorney.

261—169.8(17A,22) Notice to suppliers of information.

When the agency requests a person to supply information about that person, the agency shall notify the person of the use that will be made of the information, which persons outside the agency might routinely be provided the information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means.

261—169.9(17A,22) Disclosures without the consent of the subject.

169.9(1) Open records are routinely disclosed without the consent of the subject.

169.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 169.10(17A,22) or in the notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative fiscal bureau under Iowa Code section 2.52.

f. In the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

261—169.10(17A,22) Routine use.

169.10(1) "Routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

169.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

of their duties. The custodian of the record may upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

261—169.11(17A,22) Consensual disclosure of confidential records.

169.11(1) Consent to disclosure by a subject individual. The subject may consent in writing to agency disclosure of confidential records as provided in rule 169.7(17A,22).

169.11(2) Complaints to public officials. A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

261—169.12(17A,22) Release to subject.

169.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 169.7(17A,22). However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18).

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5).)

d. As otherwise authorized by law.

169.12(2) When a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

261—169.13(17A,22) Availability of records.

169.13(1) Open records. Agency records are open for public inspection and copying unless otherwise provided by rule or law.

169.13(2) Confidential records. The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 73.2)

b. Tax records made available to the agency. (Iowa Code sections 422.20 and 422.72)

c. Records which are exempt from disclosure under Iowa Code section 22.7, including, but not limited to:

(1) Industrial prospect files which are considered confidential under Iowa Code section 22.7(8).

(2) Trade secrets which are treated as confidential under Iowa Code section 22.7(3).

(3) Reports which, if released, would give advantage to competitors and serve no public purpose. These records are considered confidential under Iowa Code section 22.7(6).

(4) Communications not required by rule, law, procedure or contract to the extent that the agency reasonably believes that such communications would not be made if the supplier knew the information would be made available for general public examination. These records are confidential under Iowa Code section 22.7(18).

d. Client database. The agency maintains a database of business prospects. This list identifies companies that may be seeking to expand or locate their businesses in Iowa. This list is considered confidential under Iowa Code sections 22.7(3), 22.7(6), 22.7(8) and 22.7(18).

e. Minutes of closed meetings of a governmental body as permitted under Iowa Code section 21.5(4).

f. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)"d."

g. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics on allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of those statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (Iowa Code sections 17A.2 and 17A.3)

h. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

i. Data processing software, as defined in Iowa Code section 22.3A, which is developed by a governmental body.

j. Log-on identification passwords, Internet protocol addresses, private keys, or other records containing information which might lead to disclosure of private keys used in a digital signature or other similar technologies as provided in Iowa Code chapter 554D.

k. Records which if disclosed might jeopardize the security of an electronic transaction pursuant to Iowa Code chapter 554D.

l. Any other records considered confidential by law.

169.13(3) Authority to release confidential records. The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other provision of law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 169.5(17A,22). If the agency initially determines that it will release such records, the agency may, when appropriate, notify interested parties and with-

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

hold the records from inspection as provided in subrule 169.4(3).

261—169.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 169.2(17A,22). This rule describes the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. Unless otherwise stated, the authority for this agency to maintain the record is provided by Iowa Code chapter 15. The record systems maintained by the agency are:

169.14(1) Personnel files. Personnel records of department employees are maintained at the agency. Records of staff include such personally identifiable information as name, address, social security number and employee payroll number. Other data contained in staff personnel records are salary information, seniority date, employee deduction forms, insurance and savings bond contributions, deferred compensation information, current leave information, performance evaluations and performance review dates. Some information may be confidential under Iowa Code section 22.7(11). Data processing systems do not match, collate or compare the personally identifiable information of the staff personnel records with personally identifiable information contained in the records of other agencies.

169.14(2) Travel records. The agency maintains travel records of agency staff. Personally identifiable information collected includes the name, address, and social security number of the individual. This information is collected pursuant to Iowa Code section 421.39. Data processing systems do not match, collate or compare the personally identifiable information collected with similar information collected by other state agencies.

169.14(3) Claim vouchers. Requests for reimbursement from agency staff, contractors, and grantees are maintained by the agency. These records contain the name, address and social security number of the individual requesting reimbursement for expenses. This information is collected pursuant to Iowa Code section 421.40. The information is not maintained in a data processing system which matches, collates or compares the information with other systems containing personally identifiable information.

169.14(4) Contracts and grant records. Contractual agreements and grant agreements are maintained by the agency. These records contain personally identifiable information when the agreement is with a specific individual. In those instances, the records include the name, address and social security number of the contractor/grant recipient. Other information in these records may include the proposal or work statement of the contractor or grant recipient, budget figures, modifications, correspondence and business information. Personally identifiable information is not contained in a data processing system which collates, matches or compares this information with other systems containing personally identifiable information.

169.14(5) Payroll records. Payroll records include time sheets of individuals, listings of prior years' earnings, current listings of deductions, and insurance billings. Personally identifiable information is included in these records. An employee's name, address and social security number are maintained in the payroll record. Personally identifiable information is not contained in a data processing system which

collates, matches or compares this information with other systems containing personally identifiable information.

169.14(6) Grant and loan application records. The agency administers a variety of state and federal grant and loan programs. Records of persons or organizations applying for grants, awards or funds are available through the agency. These records may contain information about individuals collected pursuant to specific federal or state statutes or regulations. Personally identifiable information such as name, address, social security number and telephone number may be included in these records when the applicant is an individual. Many program applicants are political subdivisions or corporations, not individuals.

169.14(7) Litigation files. These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney's notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copies.

261—169.15(17A,22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 169.2(17A,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information as discussed in rule 169.13(17A,22). The records listed may contain information about individuals. Unless otherwise stated, the authority for the agency to maintain the record is provided by Iowa Code chapter 15.

169.15(1) Rule making. Rule-making records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. Public documents generated during the promulgation of agency rules, including notices and public comments, are available for public inspection. This information is not stored in an automated data processing system.

169.15(2) Board records. Agendas, minutes, and materials presented to the Iowa department of economic development are available from the agency except for confidential records. Those records concerning closed sessions are exempt from disclosure under Iowa Code section 21.5(4). Board records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not retrieved by individual identifier and is not stored on an automated data processing system.

169.15(3) Statistical reports. Periodic reports of various agency programs are available from the Iowa department of economic development. Statistical reports do not contain personally identifiable information.

169.15(4) Appeal decisions and advisory opinions. All final orders, decisions and opinions are open to the public except for information that is confidential according to rule 169.13(17A,22).

169.15(5) Publications. Publications include news releases, annual reports, project reports, agency newsletters, etc., which describe various agency programs and activities.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

Agency news releases, project reports, and newsletters may contain information about individuals including agency staff or members of agency councils or committees.

169.15(6) Address lists. The names and mailing addresses of members of boards and councils, work groups, program grantees and members of the public indicating interest in particular programs and activities of the agency are maintained to generate mailing labels for mass distribution of agency mailings.

169.15(7) Appeal decisions and advisory opinions. All final orders, decisions and opinions are open to the public except for information that may be confidential according to rule 169.13(17A,22).

169.15(8) Published materials. The agency uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

These rules are intended to implement Iowa Code chapters 17A and 22.

ARC 2417B**EDUCATIONAL EXAMINERS
BOARD[282]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 11, “Complaints, Investigations, Contested Case Hearings,” Iowa Administrative Code.

The Board received a disciplinary complaint from the Iowa Department of Transportation regarding alleged misconduct by a holder of a behind-the-wheel authorization. The complaint was rejected because current Board rules do not provide for the filing of a complaint by the Department of Transportation for someone who possesses a behind-the-wheel authorization.

The proposed amendment modifies the hearing procedures by designating who may initiate a complaint. The Iowa Department of Transportation (IDOT) has the statutory function of approving the curriculum for behind-the-wheel driving instruction courses and issuing a behind-the-wheel instructor’s certificate to those persons who meet the prerequisites established by IDOT rules. This IDOT behind-the-wheel certification is a requirement for issuance of a behind-the-wheel instructor authorization issued by the Board of Educational Examiners as found in 282—21.2(272).

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held on Tuesday, May 13, 2003, at 3:30 p.m. in Conference Room 1 North, First Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the

Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, May 16, 2003. Written comments and suggestions should be addressed to Dr. Anne E. Kruse, Executive Director, Board of Educational Examiners, at the above address, or sent by E-mail to anne.kruse@ed.state.ia.us, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend subrule 11.4(1) as follows:

11.4(1) Who may initiate. *The following entities may initiate a complaint:*

- a. Licensed practitioners employed by a school district or their educational entity or their recognized local or state professional organization.
- b. Local boards of education.
- c. Parents or guardians of students involved in the alleged complaint.
- d. The executive director of the board of educational examiners ~~may initiate a complaint~~ if the following circumstances have been met:

(1) The executive director receives information that a practitioner:

1. Has been convicted of a felony criminal offense, or a misdemeanor criminal offense wherein the victim of the crime was 18 years of age or younger, and the executive director expressly determines within the complaint that the nature of the offense clearly and directly impacts the practitioner’s fitness or ability to retain the specific license(s) or authorization(s) which the practitioner holds; or
2. Has been the subject of a founded report of child abuse placed upon the central registry maintained by the department of human services pursuant to Iowa Code section 232.71D and the executive director expressly determines within the complaint that the nature of the offense clearly and directly impacts the practitioner’s fitness or ability to retain the specific license(s) or authorization(s) which the practitioner holds; or
3. Has falsified a license or authorization issued by the board; or
4. Has submitted false information on a license or authorization application filed with the board; and

(2) The executive director verifies the information through review of official records maintained by a court, or the department of human services registry of founded child abuse reports, or the practitioner licensing authority of another state, or the executive director is presented with the falsified license; and

(3) No other complaint has been filed.

e. The department of transportation if the licensee named in the complaint holds a behind-the-wheel instructor’s certification issued by the department and the complaint relates to an incident or incidents arising during the course of driver’s education instruction.

ARC 2416B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 11, “Complaints, Investigations, Contested Case Hearings,” Iowa Administrative Code.

The proposed amendment modifies the hearing procedures by designating who shall prosecute complaints. 2002 Iowa Acts, chapter 1084 (House File 2482), amends Iowa Code section 272.2(4) to provide the Board with express authority to designate who may initiate complaints and who shall prosecute complaints.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held on Tuesday, May 13, 2003, at 4 p.m. in Conference Room 1 North, First Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, May 16, 2003. Written comments and suggestions should be addressed to Dr. Anne E. Kruse, Executive Director, Board of Educational Examiners, at the above address, or sent by E-mail to anne.kruse@ed.state.ia.us, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend subrule 11.21(3) as follows:

11.21(3) Legal representation. ~~Parties have the right to participate or be represented in all hearings or prehearing conferences related to their case.~~

a. Any party. The respondent has a right to participate in all hearings or prehearing conferences and may be represented by an attorney or another person authorized by law.

b. When a complaint is initiated by the executive director of the board under paragraph 11.4(1)“d” of these rules, evidence supporting the complaint may be introduced at the hearing by an assistant attorney general. The office of the attorney general shall be responsible for prosecuting complaint allegations in all contested case proceedings before

the board, except those cases in which the sole allegation involves the failure of a practitioner to fulfill contractual obligations. The assistant attorney general assigned to prosecute a contested case before the board shall not represent the board or the complainant in that case, but shall represent the public interest.

c. In a case in which the sole allegation involves the failure of a practitioner to fulfill contractual obligations, the person who files the complaint with the board, or the complainant’s designee, shall represent the complainant during the contested case proceedings.

ARC 2418B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, “Issuance of Practitioner’s Licenses and Endorsements,” Iowa Administrative Code.

The Board currently has in place a rule regarding the correction of a license. Although the rule only addresses corrections related to endorsements, Board staff have historically provided corrections of other typographical or clerical errors, without charge, if the error is identified within 30 days of the date of issuance of the license. Examples include correcting spelling errors, the type of license or endorsement issued, and the expiration date. The proposed amendment clarifies the process to correct a license up to 30 days after issuance and the process to correct a license more than 30 days after issuance.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held on Tuesday, May 13, 2003, at 2:30 p.m. in Conference Room 1 North, First Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, May 16, 2003. Written comments and suggestions should be addressed to Dr. Anne E. Kruse, Executive Director, Board of Educational Examiners, at the above address,

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

sent by E-mail to anne.kruse@ed.state.ia.us, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend rule 282—14.107(272) as follows:

282—14.107(272) Correcting licenses. ~~If, at the time of the original issuance of a license, a person does not receive an endorsement for which the individual is eligible, a licensee notifies board staff of a typographical or clerical error on the license within 30 days of the date of the board's mailing of a license, a corrected license shall be issued without charge to the licensee. Also, a corrected license shall be issued if a person receives an endorsement for which the person is not eligible. If notification of a typographical or clerical error is made more than 30 days after the date of the board's mailing of a license, a corrected license shall be issued upon receipt of the fee for issuance of a duplicate license. For purposes of this rule, typographical or clerical errors include misspellings, errors in the expiration date of a license, errors in the type of license issued, and the omission or misidentification of the endorsements for which application was made. A licensee requesting the addition of an endorsement not included on the initial application must submit a new application and the appropriate application fee.~~

ARC 2419B

EDUCATIONAL EXAMINERS
BOARD[282]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, “Issuance of Practitioner’s Licenses and Endorsements,” Iowa Administrative Code.

These amendments clarify the names of the various licenses issued by the Board by eliminating the words “conditional” and “emergency” and inserting alphabetical characters. It appears that the words “conditional” and “emergency” indicate to various national audiences and out-of-state individuals that a person has not yet attained minimal state licensure. The words “conditional” and “emergency” as currently used by the Board mean that an individual has attained full Iowa licensure, but the individual is either working on a new endorsement or the individual has not yet attained completion of an added endorsement. It has become increasingly difficult to explain Iowa’s conditional license status to various federal officials and to complete various national surveys because other states and the federal government use the words “conditional” and “emergency” to mean that an individual has not yet attained full state licensure.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held on Tuesday, May 13, 2003, at 2 p.m. in Conference Room 1 North, First Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Written comments or suggestions on the proposed amendments must be received by 4 p.m. on Friday, May 16, 2003. Written comments and suggestions should be addressed to Dr. Anne E. Kruse, Executive Director, Board of Educational Examiners, at the above address, sent by E-mail to anne.kruse@ed.state.ia.us, or by fax to (515)281-7669.

These amendments are intended to implement Iowa Code chapter 272.

The following amendments are proposed.

ITEM 1. Amend rule 282—14.110(272) as follows:

282—14.110(272) Licenses. The following licenses will be issued effective ~~August 31, 2004~~ *October 1, 2003*:

1. Initial.
2. Standard.
3. Master educator.
4. Professional administrator.
5. ~~Conditional Class A.~~
6. *Class B.*
7. *Class C.*
8. *Class D.*
9. *Class E.*
- 6 10. Substitute.
- 7 11. Area education agency administrator.
8. ~~Alternative preparation~~ 12. *Teacher intern.*

ITEM 2. Amend rule 282—14.115(272) as follows:

282—14.115(272) Requirements for a one-year conditional Class A license. A nonrenewable ~~conditional Class A~~ license valid for one year may be issued to an individual *who has completed a teacher education program* under any one of the following conditions:

1. Professional core requirements. The individual has not completed all of the required courses in the professional core, 14.123(4)“a” to “j.”
2. Human relations component. The individual has not completed an approved human relations component.
3. Recency. The individual meets requirement(s) for a valid license, but has had fewer than 160 days of teaching experience during the five-year period immediately preceding the date of application or has not completed six semester hours of college credit from a recognized institution within the five-year period. To obtain the desired license, the applicant must complete recent credit and, where recent credits are required, these credits shall be taken in professional education or in the applicant’s endorsement area(s).
4. Degree not granted until next regular commencement. An applicant who meets the requirements for a license with the exception of the degree, but whose degree will not be

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

granted until the next regular commencement, may be issued a ~~one-year conditional~~ *Class A* license.

5. Based on an expired Iowa certificate or license, exclusive of a ~~conditional Class A, Class B, Class C, or Class D~~ license. The holder of an expired license, exclusive of a ~~conditional Class A, Class B, Class C, or Class D~~ license or a ~~temporary certificate~~, shall be eligible to receive a ~~conditional~~ *Class A* license upon application. This license shall be endorsed for the type of service authorized by the expired license on which it is based.

6. Based on an administrative decision. The bureau of practitioner preparation and licensure is authorized to issue a ~~conditional Class A~~ license to applicants whose services are needed to fill positions in unique need circumstances.

ITEM 3. Amend rule 282—14.116(272) as follows:

282—14.116(272) Requirements for a two-year conditional Class B license. A nonrenewable ~~conditional Class B~~ license valid for two years may be issued to an individual under the following conditions: If a person is the holder of a valid license and is the holder of one or more endorsements, but is seeking to obtain some other endorsement, a ~~two-year conditional Class B~~ license may be issued if requested by an employer and the individual seeking this endorsement has completed at least two-thirds of the requirements, or one-half of the content requirements in a state-designated shortage area, leading to completion of all requirements for that endorsement.

For the principal's endorsement, three years of teaching experience must have been met before application for the ~~conditional Class B~~ license. For the superintendent's endorsement, three years of teaching experience and three years as a building principal or other PK-12 districtwide or intermediate agency experience are acceptable for becoming a superintendent, and must have been met before application for the ~~conditional Class B~~ license.

A school district administrator may file a written request with the board for an exception to the minimum content requirements on the basis of documented need and benefit to the instructional program. The board will review the request and provide a written decision either approving or denying the request.

This license is not renewable.

ITEM 4. Amend rule 282—14.117(272) as follows:

282—14.117(272) Conditional special education Requirements for a Class C license. Based on the amount of preparation needed to complete the requirements for the *special education* endorsement, a ~~conditional special education Class C~~ license may be issued to an individual for a term of up to three years under the following conditions:

1. The individual is the holder of a valid license.
2. The individual has completed at least one-half of the credits necessary for a special education endorsement.
3. The employing school official makes written request supported by the respective area education agency special education officials.
4. The college or university outlines the coursework to be completed for the endorsement.

ITEM 5. Amend rule 282—14.118(272) as follows:

282—14.118(272) Conditional Requirements for a Class D occupational and postsecondary licenses license.

14.118(1) Conditional occupational license. A two-year ~~conditional Class D~~ occupational license may be issued to an

applicant who has not met all of the experience requirements for the provisional occupational license.

14.118(2) Conditional postsecondary license. A two-year ~~conditional postsecondary license may be issued to an applicant who has not met all of the initial requirements for a provisional postsecondary license or holds the provisional or regular postsecondary license with an endorsement and is seeking an endorsement in another teaching field.~~

ITEM 6. Amend subrule 14.121(5) as follows:

14.121(5) One-year emergency Class E license. The fee for the issuance of a one-year ~~emergency Class E~~ license based on an expired ~~conditional Class A, Class B, Class C, Class D~~ license or an expired administrative decision *teacher exchange* license shall be \$100.

ITEM 7. Adopt the following **new** rule:

282—14.131(272) Requirements for a Class E license. A nonrenewable license valid for one year may be issued to an individual based upon an expired Class A, Class B, Class C, Class D or teacher exchange license. The holder of an expired license shall be eligible to receive a Class E license upon application. The application process will require transcripts of coursework completed during the term of the expired license, a program of study indicating the coursework necessary to obtain full licensure, and registration for coursework to be completed during the term of the Class E license.

ARC 2421B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 15, “Requirements for Special Education Endorsements,” Iowa Administrative Code.

The proposed amendments modify the requirements for the school psychologist endorsement and also provide for a one-year conditional license for applicants who must complete an approved internship or a thesis as an element of the approved program in preparation for the school psychologist endorsement. Work on these proposed amendments has included an analysis of national standards as well as discussions with other state-level personnel involved in programs for school psychologists.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Tuesday, May 13, 2003, at 1:30 p.m. in Conference Room 1 North, First Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. Friday, May 16, 2003. Written comments and suggestions should be addressed to Dr. Anne E. Kruse, Executive Director, Board of Educational Examiners, at the above address, or sent by E-mail to anne.kruse@ed.state.ia.us or by fax to (515)281-7669.

These amendments are intended to implement Iowa Code chapter 272.

The following amendments are proposed.

Amend subrule 15.3(8) as follows:

15.3(8) School psychologist.

a. Authorization. The holder of this endorsement is authorized to serve as a school psychologist with pupils from birth to 21 (and to a maximum allowable age in ~~accord~~ *accordance* with Iowa Code section 256B.8).

b. Program requirements.

(1) An applicant shall have completed an approved program of graduate study in preparation for service as a school psychologist through one of the following options:

1. Completion of a master's degree with sufficient graduate semester hours beyond a baccalaureate degree to total 60; or

2. Completion of a specialist's degree of at least 60 graduate semester hours with or without completion of a terminal master's degree program; or

3. Completion of a 60-semester-hour master's degree program; *or*

4. *Completion of a graduate school psychology program that is currently approved (or was approved at the time of graduation) by the National Association of School Psychologists or the American Psychological Association; or*

5. *Certification as a Nationally Certified School Psychologist by the National Association of School Psychologists.*

The program must include a practicum in a school setting designed to give the school psychologist an opportunity to develop an understanding of the role of psychology in the classroom through participation in classroom procedures in a supportive role.

(2) ~~Complete~~ *The program shall include an approved human relations component.*

(3) The program must include preparation that contributes to the education of ~~the handicapped and the gifted and talented~~ *students with disabilities and students who are gifted and talented.*

c. *School psychologist one-year conditional license.*

(1) *Requirements for a one-year conditional license. A nonrenewable conditional license valid for one year may be issued to an individual who must complete an internship or thesis as an aspect of an approved program in preparation for the school psychologist endorsement. The one-year conditional license may be issued under the following limited conditions:*

1. *Verification from the institution that the internship or thesis is a requirement for successful completion of the program.*

2. *Verification that the employment situation will be satisfactory for the internship experience.*

3. *Verification from the institution of the length of the approved and planned internship or the anticipated completion date of the thesis.*

4. *Verification of the evaluation processes for successful completion of the internship or thesis.*

5. *Verification that the internship or thesis is the only requirement remaining for successful completion of the approved program.*

(2) *Written documentation of the above requirements must be provided by the official at the institution where the individual is completing the approved school psychologist program and forwarded to the Iowa board of educational examiners with the application form for licensure.*

ARC 2422B

EMERGENCY MANAGEMENT DIVISION[605]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 29C.8, the Emergency Management Division proposes to rescind Chapter 9, "Iowa Emergency Plan," and adopt new Chapter 9, "Iowa Comprehensive Plan," Iowa Administrative Code.

These rules implement changes in the Iowa Comprehensive Plan resulting from a comprehensive review and rewrite of Part A: Iowa Emergency Response Plan by the Emergency Management Division with participation by those state agencies that have functional roles and responsibilities in disaster emergency response.

Consideration will be given to all written suggestions or comments on the proposed rules on or before May 6, 2003. Such written materials should be sent to the Administrator, Iowa Emergency Management Division, Hoover State Office Building, Des Moines, Iowa 50319, or by facsimile to (515)182-7539.

Also, there will be a public hearing on May 7, 2003, at 10 a.m. (local Iowa time) in the Emergency Management Division Conference Room, Hoover State Office Building, Level A, Des Moines, Iowa, at which time persons may present their views.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 2424B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code section 29C.8.

ARC 2415B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services proposes to adopt Chapter 15, “Disputed County Billings,” Iowa Administrative Code.

This amendment provides a process to relieve counties’ obligations to pay for certain mental health, mental retardation or developmental disability services rendered before July 1, 1997, as directed by 2001 Iowa Acts, chapter 155. That legislation directs the Department, to the extent possible under federal law and regulation, to relieve counties of the obligation to pay for services if:

- The county has not been billed for the service or has disputed the bill before May 21, 2001; or
- The state has fully charged off the cost of the service to an appropriation made in a prior fiscal year or has not provided information to appropriately document the basis for the billing.

Services affected by this chapter include:

- Care for adults and children at state mental health institutes and state resource centers.
- Medicaid-covered enhanced services, care in an intermediate care facility for mentally retarded persons, and some home- and community-based waiver services.

Under this amendment, the Department will be required to reconcile county accounts for billings occurring within the specified time period and notify counties of the amount of outstanding debt being written off, as well as any obligations or credits that remain. Counties will have the opportunity to respond to the notification through an administrative review process. After the administrative review process, the regular Department appeal process will be available to counties.

Any interested person may make written comments on the proposed amendment on or before May 7, 2003. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

The Department will hold a public hearing for the purpose of receiving comments on this amendment on May 8, 2003, from 9 to 11 a.m. in the First Floor Southeast Conference Room, Hoover State Office Building, 1305 East Walnut Street, Des Moines. Comments may be offered at the hearing either orally or in writing. Anyone who intends to attend the hearing and has special requirements, such as hearing or vision impairments, should contact the Office of Policy Analysis at (515)281-8440 and advise of special needs.

This amendment does not provide for waivers in specified situations because it provides a process for counties to dispute billings. All counties should be subject to the same process.

This amendment is intended to implement 2001 Iowa Acts, chapter 155, section 12.

The following amendment is proposed.

Adopt **new** 441—Chapter 15 as follows:

CHAPTER 15 DISPUTED COUNTY BILLINGS

These rules provide a process to relieve counties’ obligation to pay for certain mental health, mental retardation, or developmental disability services rendered before July 1, 1997.

441—15.1(79GA,ch155) Definitions.

“Department” means the Iowa department of human services.

“Services,” for the purpose of this chapter, means mental health, mental retardation, or developmental disability services for which the costs or patient charges are payable in whole or in part by a county, in accordance with Iowa Code chapter 222, 230, or 249A. These services include but are not limited to:

1. Medicaid services in an intermediate care facility for persons with mental retardation,
2. Medicaid enhanced services,
3. Medicaid home- and community-based waiver services, and
4. Care for adults and children at the state mental health institutes and state resource centers (formerly the state hospital-schools).

441—15.2(79GA,ch155) Determination of county obligation. The department shall reconcile county receipts, billings, and credits for services rendered before July 1, 1997, that are a county obligation under Iowa Code chapter 222, 230 or 249A.

15.2(1) Obligation. A county shall have no obligation for any outstanding debt or obligation to pay in whole or in part for services to the extent that any of the following conditions are met:

- a. The department has not billed the county before May 21, 2001.
- b. The county has disputed the billing before May 21, 2001, by notifying the department that the county disagrees with or contests the legitimacy or accuracy of the bill.
- c. The state has fully charged off the cost of the service to an appropriation for a fiscal year before the fiscal year ending June 30, 2001, by paying the cost from that appropriation after determining that no county was liable for the cost.
- d. The department has not provided both of the following to the county to document the basis for the billing:

(1) A billing produced by the Medicaid fiscal agent or a departmental billing abstract that includes:

1. Client names;
2. Client identifiers such as, but not limited to, state identification numbers and social security numbers;
3. Billing dates; and
4. The amount due for the county’s portion of the cost of services.

(2) Residential information and service history sufficient to allow determination of legal settlement.

15.2(2) Notification. After the department’s determination pursuant to subrule 15.2(1), the department shall notify in writing each county that is determined to have an outstanding financial obligation or credit for services rendered before July 1, 1997, under Iowa Code chapter 222, 230, or 249A. The notification shall:

- a. State the amount of the debt obligation or the credit; and
- b. Require the county to submit a written response to the department’s division of fiscal management within 30 calen-

HUMAN SERVICES DEPARTMENT[441](cont'd)

dar days of the date of the notification if, based upon the conditions set forth in subrule 15.2(1), the county disagrees with the amount of the outstanding financial obligation or credit.

15.2(3) County response. A county that disagrees with the department's determination of the amount of the outstanding financial obligation or credit shall provide the following information in its written response to the notification issued under subrule 15.2(2):

a. A statement of the reasons why the county is in disagreement with the outstanding financial obligation or credit, and

b. Any relevant legal citations, client identifiers, and additional information supporting the county's position.

441—15.3(79GA,ch155) Administrative review.

15.3(1) Request for review. Any written response from a county to the notification provided pursuant to subrule 15.2(2) shall constitute a request for administrative review if it is received within 30 calendar days from the date of that notice.

15.3(2) Determination final. If the division of fiscal management receives no request for review pursuant to subrule 15.3(1) within 30 calendar days after providing the notification pursuant to subrule 15.2(2), then the credit and debt determinations shall be considered final. Debt determinations shall be considered due and owing by the county.

15.3(3) Review and notice. Within 30 calendar days of receipt of a timely written request for review, the division of fiscal management shall review the basis for the outstanding financial obligation or credit and the county's position as stated in the request for review. The division of fiscal management shall:

a. Notify the county in writing of the findings of the review; and

b. Make adjustments to the outstanding financial obligation or credit when necessary.

441—15.4(79GA,ch155) Appeal.

15.4(1) Appeal rights. If a county disagrees with the department's written notice of findings on an administrative review pursuant to subrule 15.3(3), the county may appeal pursuant to 441—Chapter 7 within 30 days of the notice of findings.

15.4(2) Determination final. If the department receives no appeal pursuant to subrule 15.4(1) and 441—Chapter 7 within 30 days from the date of the written notice of findings on an administrative review, then the credit and debt determinations shall be considered final. Debt determinations shall be considered due and owing by the county.

441—15.5(79GA,ch155) Credits. After the final determination of any county credits pursuant to this chapter and 441—Chapter 7, the credit shall remain and the credit balance shall be applied pursuant to 441—Chapter 28.

These rules are intended to implement 2001 Iowa Acts, chapter 155, section 12.

ARC 2410B**PHARMACY EXAMINERS
BOARD[657]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147.76, 235B.16, and 272C.2, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 2, “Pharmacist Licenses,” Iowa Administrative Code.

The amendments were approved at the February 19, 2003, regular meeting of the Board of Pharmacy Examiners.

The proposed amendments establish a time period during which internship experience will be considered valid for licensure, and limit Board-approved and recognized college of pharmacy certification to United States institutions. The amendments also establish requirements for training for those pharmacists qualifying as mandatory abuse reporters, identify persons exempt from training, identify approved training programs, establish requirements for maintenance of training records, and provide that mandatory abuse reporter training is a requirement for license renewal for those individuals identified as mandatory abuse reporters.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on May 6, 2003. Such written materials should be sent to Terry Witkowski, Administrative Assistant, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@ibpe.state.ia.us.

These amendments are intended to implement Iowa Code sections 155A.6, 155A.8, 235B.16, and 272C.2.

The following amendments are proposed.

ITEM 1. Amend rule 657—2.4(155A) as follows:

657—2.4(155A) Internship requirements. Each applicant shall furnish to the board evidence certifying completion of satisfactory internship experience. Internship experience shall comply with the requirements in 657—Chapter 4. *Internship experience completed in compliance with the requirements in 657—Chapter 4 shall be valid for application for licensure in Iowa by examination or score transfer for a period of three years following graduation from an approved college of pharmacy or as otherwise approved by the board on a case-by-case basis.*

ITEM 2. Amend rule 657—2.5(155A) as follows:

657—2.5(155A) College graduate certification. Each applicant shall furnish a certificate from a recognized college of pharmacy stating that the applicant has successfully graduated from a school or college of pharmacy with either a bachelor of science degree in pharmacy or a doctor of pharmacy (Pharm.D.) degree. Certification shall be completed by an individual authorized by the college on a form

PHARMACY EXAMINERS BOARD[657](cont'd)

provided by the board. A recognized college of pharmacy is ~~an~~ a United States institution that meets the minimum standards of the American Council on Pharmaceutical Education and appears on its list of accredited colleges of pharmacy published by the council as of July 1 of each year.

ITEM 3. Amend subrule 2.12(5) as follows:

2.12(5) New license holders licensed by examination. After the initial license is issued by examination, the new license holder is exempt from meeting continuing education requirements for the first license renewal. *However, if the licensee qualifies as a mandatory abuse reporter, the licensee shall not be exempt from mandatory training for identifying and reporting abuse pursuant to rule 2.16(235B,272C).* Regardless of when the license is first issued, the new license holder will be required to obtain, prior to the second renewal, 30 contact hours (3.0 CEUs) of continuing education pursuant to subrules 2.12(1) through 2.12(4).

ITEM 4. Adopt new rule 657—2.16(235B,272C) as follows:

657—2.16(235B,272C) Mandatory training for identifying and reporting abuse. “Mandatory training for identifying and reporting abuse” means training on identifying and reporting child abuse or dependent adult abuse required of a pharmacist who qualifies as a mandatory abuse reporter under Iowa Code section 232.69 or 235B.16. A licensed pharmacist shall be responsible for determining whether or not, by virtue of the pharmacist’s practice or employment, the pharmacist qualifies as a mandatory abuse reporter under either or both of these sections.

2.16(1) Training required. A licensed pharmacist who qualifies as a mandatory abuse reporter shall complete approved abuse education training as follows.

a. Mandatory reporter of child abuse. A pharmacist who qualifies as a mandatory reporter of child abuse shall have completed two hours of training in child abuse identification and reporting within the previous five years.

b. Mandatory reporter of dependent adult abuse. A pharmacist who qualifies as a mandatory reporter of dependent adult abuse shall have completed two hours of training in dependent adult abuse identification and reporting within the previous five years.

c. Mandatory reporter of child abuse and dependent adult abuse. A pharmacist who qualifies as a mandatory reporter of child abuse and dependent adult abuse may complete separate courses pursuant to paragraphs “a” and “b” or may complete, within the previous five years, one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse.

2.16(2) Persons exempt from training requirements. The requirements of this rule shall not apply to a pharmacist during periods that the pharmacist serves honorably on active duty in the military or during periods that the pharmacist resides outside Iowa and does not practice pharmacy in Iowa.

2.16(3) Mandatory training records. A pharmacist subject to the requirements of this rule shall maintain documentation of completion of the mandatory training for identifying and reporting abuse, including dates, subjects, duration of programs, and proof of participation, for five years following the date of the training. The board may audit this information at any time within the five-year period.

2.16(4) Approved programs. “Approved abuse education training” means a training program using a curriculum approved by the abuse education review panel of the Iowa department of public health.

ARC 2409B

PHARMACY EXAMINERS BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 6, “General Pharmacy Practice,” Iowa Administrative Code.

The amendments were approved at the February 19, 2003, regular meeting of the Board of Pharmacy Examiners.

The proposed amendments clarify the status required of the original prescription drug order at the time of transfer of an order for noncontrolled prescription drugs between pharmacies and provide a time limit within which a pharmacy utilizing an alternative data retention system must be able to produce a hard copy of the record maintained in that system.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on May 6, 2003. Such written materials should be sent to Terry Witkowski, Administrative Assistant, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@ibpe.state.ia.us.

These amendments are intended to implement Iowa Code sections 124.306, 155A.13, 155A.34, and 155A.35.

The following amendments are proposed.

ITEM 1. Amend subrule 6.9(2) as follows:

6.9(2) Noncontrolled substances prescriptions. The transfer of original prescription drug order information for noncontrolled prescription drugs between pharmacies is permissible as long as the number of transfers does not exceed the number of originally authorized refills *and the original prescription is still valid.*

ITEM 2. Amend subrule **6.16(4)**, paragraph “b,” as follows:

b. The data processing system is capable of producing a hard copy of the record, *within two business days*, upon the request of the board, its representative, or other authorized local, state, or federal law enforcement or regulatory agencies.

ARC 2408B**PHARMACY EXAMINERS
BOARD[657]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 22, “Unit Dose, Alternative Packaging, and Emergency Boxes,” Iowa Administrative Code.

The amendment was approved at the February 19, 2003, regular meeting of the Board of Pharmacy Examiners.

The proposed amendment authorizes a pharmacy to include normal saline for irrigation in the emergency drug supply provided for the use of home health agency or hospice personnel.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on May 6, 2003. Such written materials should be sent to Terry Witkowski, Administrative Assistant, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@ibpe.state.ia.us.

This amendment is intended to implement Iowa Code sections 155A.4, 155A.13, and 155A.15.

The following amendment is proposed.

Amend subrule **22.9(5)** by adding **new** paragraph “o” as follows and relettering existing paragraphs “o” to “q” as “p” to “r”:

- o. Normal saline for irrigation.

ARC 2407B**PHARMACY EXAMINERS
BOARD[657]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147.76 and 272C.4, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 36, “Discipline,” Iowa Administrative Code.

The amendments were approved at the February 19, 2003, regular meeting of the Board of Pharmacy Examiners.

The proposed amendments amend the grounds for disciplinary action to include a licensee’s default on a repayment or service obligation under any federal or state educational

loan or service-conditional scholarship program or for a licensee’s failure to comply with mandatory child or dependent adult abuse reporter training requirements.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on May 6, 2003. Such written materials should be sent to Terry Witkowski, Administrative Assistant, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@ibpe.state.ia.us.

These amendments are intended to implement Iowa Code sections 147.55, 155A.12, 235B.16, 261.126, and 272C.4.

The following amendments are proposed.

ITEM 1. Amend subrule **36.1(4)**, paragraph “y,” as follows:

y. Student loan default or noncompliance with the terms of an agreement for payment of a student loan obligation as evidenced by a certificate of noncompliance issued pursuant to Iowa Code chapter 261 *or default on a repayment or service obligation under any federal or state educational loan or service-conditional scholarship program upon certification by the program of such a default.*

ITEM 2. Amend subrule **36.1(4)** by adopting **new** paragraph “af” as follows:

af. Failure to comply with mandatory child or dependent adult abuse reporter training requirements.

ARC 2413B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Chiropractic Examiners hereby gives Notice of Intended Action to rescind Chapter 42, “Schools for Chiropractic Physicians,” and adopt new Chapter 42, “Colleges for Chiropractic Physicians,” Iowa Administrative Code.

The proposed amendment rescinds the current rules covering colleges and adopts new rules for chiropractic colleges.

These rules were revised according to Executive Order Number 8. The Division sent copies of the rules to chiropractic colleges and selected associations and individuals. Staff also had input on these rules.

Any interested person may make written comments on the proposed rules no later than May 13, 2003, addressed to Ella Mae Baird, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail ebaird@idph.state.ia.us.

A public hearing will be held on May 13, 2003, from 9 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

and to confine their remarks to the subject of the proposed rules.

This amendment is intended to implement Iowa Code chapter 151.

The following amendment is proposed.

Rescind 645—Chapter 42 and adopt the following **new** chapter in lieu thereof:

CHAPTER 42

COLLEGES FOR CHIROPRACTIC PHYSICIANS

645—42.1(151) Definitions. For the purposes of these rules, the following definitions shall apply:

“Chiropractic intern” means a chiropractic student of an approved college of chiropractic in the student’s last academic quarter, semester, or trimester of study, who is eligible for graduation from the college of chiropractic and is eligible to complete a preceptorship program.

“Chiropractic preceptor” means a chiropractic physician licensed and practicing in Iowa pursuant to Iowa Code chapter 151, who accepts a chiropractic intern or resident into the practice for the purpose of providing the chiropractic student with a clinical experience of the practice of chiropractic.

“Chiropractic resident” means a graduate chiropractic physician who has received a doctor of chiropractic degree from a college of chiropractic approved by the board, but who is not licensed in any state.

“Chiropractic student” means a student of an approved college of chiropractic.

“Council on Chiropractic Education” or “CCE” means the organization that establishes the Educational Standards of Chiropractic Colleges and Bylaws. A copy of the standards may be requested from the Council on Chiropractic Education (CCE). CCE’s address and Web site may be obtained from the board’s Web site at <http://www.idph.state.ia.us/licensure>.

“Preceptorship practice” means the chiropractic practice of a single chiropractic physician or group of chiropractic physicians in a particular business or clinic, into which a licensed practicing chiropractic physician has accepted a chiropractic intern or chiropractic resident for the limited purpose of providing the intern or resident with a clinical experience in the practice of chiropractic.

645—42.2(151) Board-approved chiropractic colleges.

42.2(1) Approval of a chiropractic college may be granted if the program submits proof to the board of chiropractic examiners that the chiropractic program meets the following requirements:

a. The chiropractic college is accredited by the Commission on Accreditation of the Council on Chiropractic Education (CCE), as recognized by the U.S. Secretary of Education.

b. The core curriculum shall meet the requirements of the CCE standards and in addition shall:

(1) Cover a period of four academic years totaling not less than 4,000 60-minute hours in actual resident attendance;

(2) Comprise a supervised practical clinical instruction in all of the subjects specified in Iowa Code section 151.1(3); and

(3) Include a minimum of 120 classroom hours of physiotherapy coursework with a practical application, effective July 1, 2004.

c. The chiropractic college publishes in a regularly issued catalog the requirements for graduation and degrees that are required by the board of chiropractic examiners.

d. Transcripts shall include entries for all completed coursework.

42.2(2) The board shall determine the approval status of the chiropractic college.

a. Full approval shall be given to colleges that meet all current CCE requirements, including the physiotherapy coursework.

b. Through July 1, 2004, conditional approval may be given to a college if the college meets all the requirements for approval except for the physiotherapy component as provided in subrule 42.2(1), paragraph “b,” and if the college has a written agreement with a current board-approved chiropractic college to allow students to obtain physiotherapy coursework as transfer credit. The physiotherapy coursework shall meet the same standards as the coursework offered for the board-approved chiropractic college’s own students. The students’ transcripts must reflect completion of the coursework as transfer credit.

645—42.3(151) Unlicensed practice by chiropractic interns and chiropractic residents. The student enrolled in an approved preceptorship program in the state of Iowa will be able to treat patients under the license of the clinic director or designated licensed doctor associated with the clinic of the college. The clinic will operate under the license of the clinic director or designated licensed doctor associated with the clinic.

645—42.4(151) Approved chiropractic preceptorship program. The board may approve a chiropractic college’s preceptorship program if the program meets the following requirements:

42.4(1) The preceptorship program meets current CCE standards for consumer protection.

42.4(2) The preceptorship program is an established component of the curriculum offered by a board-approved chiropractic college.

42.4(3) Chiropractic interns who participate in the preceptorship program have met all requirements for graduation from the chiropractic college except for completion of the preceptorship period.

42.4(4) Chiropractic residents who participate in the postgraduate preceptorship program have graduated from a chiropractic college approved by the board.

42.4(5) Chiropractic physicians who participate as preceptors are fully credentialed by the sponsoring chiropractic college.

42.4(6) The chiropractic college retains ultimate responsibility for student learning and evaluations during the preceptorship.

42.4(7) The chiropractic preceptor supervises no more than one chiropractic intern or one chiropractic resident for the duration of a given preceptorship period.

42.4(8) The chiropractic college shall not establish or retain a preceptor agreement with a chiropractic physician who has had formal disciplinary action or final malpractice judgment imposed within the past three years.

42.4(9) If a preceptor agreement must be canceled for any reason, it is the responsibility of the chiropractic college to assign the intern or resident to another preceptor and notify the Iowa board of chiropractic examiners of the preceptorship cancellation. The notice will include reasons for cancellation of the preceptorship.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

645—42.5(151) Approved chiropractic physician preceptors.

42.5(1) The board shall approve a chiropractic physician to be a chiropractic physician preceptor if the chiropractic physician meets the following criteria:

- a. The physician holds a current Iowa chiropractic license and has continuously held licensure in the United States for the previous five years prior to preceptorship; and
- b. The physician has not had any formal disciplinary action or final malpractice judgment in any jurisdiction within the past three years.

The preceptor shall supervise no more than one chiropractic intern or one chiropractic resident for the duration of the preceptorship period.

42.5(2) The role of the chiropractic physician preceptor shall include:

- a. Responsibility for the practice of the chiropractic intern or chiropractic resident who is accepted into a preceptorship practice.
- b. Identifying the chiropractic intern or chiropractic resident to the patients of the preceptorship practice to ensure that no patient will misconstrue the status of the intern or resident. The chiropractic intern or chiropractic resident shall wear an identification badge at all times in the presence of preceptorship patients.
- c. Exercising direct, on-premises supervision of the chiropractic intern or chiropractic resident at all times that the intern or resident is engaged in any facet of patient care in the chiropractic physician preceptor's clinic.
- d. Directing the chiropractic intern or chiropractic resident only in treatment care that is within the educational background and experience of the preceptor.
- e. Notifying the preceptorship program of formal disciplinary action or final malpractice judgment.

645—42.6(151) Termination of preceptorship. A preceptorship shall terminate upon the occurrence of one of the following events:

- 42.6(1)** Interns. Graduation from a board-approved college of chiropractic.
- 42.6(2)** Residents. Twelve months after graduation from a board-approved college of chiropractic.
- 42.6(3)** Formal disciplinary action or final malpractice judgment imposed against the chiropractic physician preceptor.

These rules are intended to implement Iowa Code chapter 151.

ARC 2412B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Examiners for Massage Therapy hereby gives Notice of Intended Action to amend Chapter 131, “Licensure of

Massage Therapists”; rescind Chapter 132, “Massage Therapy Education Curriculum,” and adopt new Chapter 132 with the same title; amend Chapter 133, “Continuing Education for Massage Therapists”; and amend Chapter 135, “Fees,” Iowa Administrative Code.

The proposed amendments update the rules covering board-approved massage therapy curriculum courses, amend the definition of “massage therapy” to include the words “or therapeutic massage including hydrotherapy” to be consistent with the definition stated in Iowa Code section 152C.1, and amend subrule 131.2(6), which requires applicants to submit proof of completion of a CPR and first-aid class to be eligible for licensure in Iowa. An application fee is proposed to cover the cost of processing initial applications for curriculum approval.

The Division sent a draft of the proposed amendments to massage therapy schools and to the associations. The Board received 18 comments on the proposed amendments. The comments were reviewed at the December 5, 2002, Board meeting and a revised draft was sent to the schools.

Any interested person may make written comments on the proposed amendments no later than May 8, 2003, addressed to Ella Mae Baird, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail ebaird@idph.state.ia.us.

A public hearing will be held on May 8, 2003, from 9 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 147, 152C and 272C.

The following amendments are proposed.

ITEM 1. Amend rule **645—131.1(152C)**, definition of “massage therapy,” as follows:

“Massage therapy” means performance for compensation of massage, myotherapy, massotherapy, bodywork, bodywork therapy, or *therapeutic massage including hydrotherapy*, superficial hot and cold applications, vibration and topical applications, or other therapy which involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, providing muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation.

ITEM 2. Rescind subrule 131.2(6) and adopt the following **new** subrule in lieu thereof:

131.2(6) The applicant shall submit proof of completion of a cardiopulmonary resuscitation (CPR) course and a first-aid course that were certified by the American Red Cross or by the American Heart Association. One of the following shall be required:

- a. Official transcript documenting completion of a CPR and a first-aid class within one year prior to submitting the application for licensure; or
- b. Copy of the current certification card(s) or renewal card(s).

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 3. Rescind 645—Chapter 132 and adopt **new** 645—Chapter 132 in lieu thereof:

CHAPTER 132

MESSAGE THERAPY EDUCATION CURRICULUM

645—132.1(152C) Definitions.

“Approved curriculum” means that the massage therapy education course of study meets the criteria specified in this chapter and has been approved by the board of examiners for massage therapy.

“Board” means the board of examiners for massage therapy.

“Client” means any person with whom the school has an agreement to provide massage therapy.

“Clinical practicum” means hands-on massage therapy provided to members of the public by a student enrolled at a massage therapy school who is under the supervision of an instructor who is an Iowa-licensed massage therapist. The instructor shall be physically present on the premises and available for advice and assistance. Clinical practicum does not include classroom practice.

“Course of study” means a series of classroom courses, not including continuing education, which is approved by the board as having a unified purpose in training individuals toward a certificate, degree or diploma in the practice of massage therapy.

“Massage therapy” means performance for compensation of massage, myotherapy, massotherapy, bodywork, bodywork therapy, or therapeutic massage including hydrotherapy, superficial hot and cold applications, vibration and topical applications, or other therapy which involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, providing muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation.

645—132.2(152C) Application for approval of massage therapy education curriculum.

132.2(1) Application forms for schools providing massage therapy education curriculum must be obtained directly from the board office. Applications and fees shall be submitted to the Board of Examiners for Massage Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075. The following information shall be submitted with the application:

a. Letter from the school that lists the names of all course instructors and includes a statement certifying that all instructors meet the criteria stated in rule 645—132.3(152C).

b. Class schedule in a clear format documenting the number of hours each subject will be taught. The course of study used by the program shall be the same as the published class schedule.

c. Syllabus that describes each course and that includes the following information:

- (1) Title of course;
- (2) Instructor's name;
- (3) Daily class schedule that shows the daily outline of the hours taught per day;
- (4) Total hours associated with each subject;
- (5) Description of course;
- (6) Textbooks and resource or supplement references; and
- (7) Grading system and testing schedule.

132.2(2) The application shall be completed according to the instructions contained in the application. If the applica-

tion is not completed according to the instructions, the application will not be reviewed by the board.

645—132.3(152C) Requirements for instructors.

132.3(1) Instructors of massage therapy, which include instructors of clinical and practical labs, shall:

- a. Hold a current Iowa license to practice massage therapy if the instructor demonstrates or performs massage therapy, pursuant to Iowa Code section 152C.5; and
- b. Have a minimum of two years of practical experience for each assigned course and modality prior to being hired as an instructor.

132.3(2) Anatomy and physiology instructors shall complete a minimum of nine semester hours of accredited college level coursework in anatomy and physiology.

132.3(3) Instructors who are teaching board-approved massage therapy courses prior to October 1, 2003, shall not be required to meet the requirements of subrules 132.3(1) and 132.3(2) until October 1, 2004.

132.3(4) The school shall maintain records that show that instructors meet the criteria of rule 645—132.3(152C) and, upon request, shall make the records available to the board. The records shall be retained for two years after the resignation of the instructor.

645—132.4(152C) Curriculum requirements.

132.4(1) The approved curriculum shall include a minimum of 500 hours of supervised on-site instruction and shall be comprised of the following hours of specific instruction:

a. A minimum of 200 hours in the fundamental theory and in the practice of massage, which shall include client assessment skills, indications and contraindications for treatment, massage techniques, and application of hands-on methods;

b. A minimum of 100 hours in anatomy and physiology, which shall include the structure and function of the human body and common pathologies;

c. A minimum of 200 hours of other subjects relating directly to the development of skills and knowledge necessary to render competent professional massage therapy to the public, and shall include hygiene and sanitation. The clinical practicum may be included in these 200 hours.

(1) Students must complete 200 hours of the course of study before working on clients in a clinical practicum.

(2) Clinical practicum hours must be on site and supervised by an instructor who is an Iowa-licensed massage therapist.

(3) Clinical practicum hours shall not exceed 20 percent of the total curriculum hours.

132.4(2) Students shall not receive credit for hours unless the hours were earned in the study or practice of massage therapy in accordance with the approved curriculum.

132.4(3) New course offerings shall not alter any minimum requirements and shall be approved by the board prior to implementation.

132.4(4) The school shall maintain a copy of the board-approved curriculum plan during implementation of the plan and for two additional years following the discontinuance of the plan.

132.4(5) The board may bring disciplinary action if the school is not providing the courses and hours submitted on the approved application. After the school has complied with the discipline imposed by the board, the school may reapply for approval of a massage therapy curriculum according to the rules in effect at the time of the reapplication.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

132.4(6) Upon completion of training, the student shall be given a certificate, diploma, or degree indicating that the student satisfactorily completed the required course of study.

132.4(7) A student shall be given a periodic evaluation covering the course content. A student's final average shall be no less than 70 percent. Records documenting the student's attendance and completion of the curriculum shall be maintained for two years following graduation.

132.4(8) The program shall provide an official transcript for each student, which shall include the student's legal name, date of birth, social security number, date of entrance to the program and completion date.

These rules are intended to implement Iowa Code chapter 152C.

ITEM 4. Amend subrule **133.3(2)**, paragraph "e," as follows:

e. Excluded from approval are programs involving modalities listed but not limited to: Alexander Techniques, Barbara Brennan Healing Sciences, Breema Bodywork, Feldenkrais, Healing Touch, Jin Shin Jyutsu, Reiki, Rosen Method, Therapeutic Touch, and Trager Approach and ~~Zero Balancing~~. Also excluded are other modalities which involve emotions or energy.

ITEM 5. Adopt **new** subrule 135.1(10) as follows:

135.1(10) Initial application fee for approval of massage therapy education curriculum is \$100.

ARC 2411B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Athletic Training Examiners hereby gives Notice of Intended Action to amend Chapter 350, "Administrative and Regulatory Authority for the Board of Athletic Training Examiners," and to rescind Chapter 353, "Discipline for Athletic Trainers," Iowa Administrative Code, and adopt new Chapter 353 with the same title.

The proposed amendments amend the rule regarding public meetings by adopting subrules covering the conduct of persons who attend public meetings. The proposed amendments also adopt new Chapter 353, which contains new and updated rules covering discipline.

The Division sent a draft of the proposed amendments to selected associations. The Board received one response on the proposed amendments.

Any interested person may make written comments on the proposed amendments no later than May 8, 2003, addressed to Ella Mae Baird, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, E-mail ebaird@idph.state.ia.us.

A public hearing will be held on May 8, 2003, from 1 to 3 p.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present

their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 147, 152D and 272C.

The following amendments are proposed.

ITEM 1. Amend rule **645—350.6(17A)**, parenthetical implementation, as follows:
(~~17A~~ 21)

ITEM 2. Adopt **new** subrules 350.6(3) and 350.6(4), as follows:

350.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

350.6(4) Cameras and recording devices may be used at open meetings, provided they do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

ITEM 3. Amend the implementation clause for **645—Chapter 350** as follows:

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 152D and 272C.

ITEM 4. Rescind 645—Chapter 353 and adopt the following **new** chapter in lieu thereof:

CHAPTER 353**DISCIPLINE FOR ATHLETIC TRAINERS****645—353.1(152D) Definitions.**

"Board" means the board of athletic training examiners.

"Licensee" means a person licensed to practice as an athletic trainer in Iowa.

"Licensee discipline" means any sanction the board may impose upon a licensee for conduct which threatens or denies persons of this state a high standard of professional care.

645—353.2(152D,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—353.2(152D,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

353.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state and includes false representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

353.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other athletic trainers in the state of Iowa acting in the same or similar circumstances.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

c. A failure to exercise the degree of care which is ordinarily exercised by the average athletic trainer acting in the same or similar circumstances.

d. Failure to conform to the minimal standard of acceptable and prevailing practice of a licensed athletic trainer in this state.

353.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

353.2(4) Practice outside the scope of the profession.

353.2(5) Use of untruthful or improbable statements in advertisements. The use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

353.2(6) Habitual intoxication or addiction to the use of drugs.

a. The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

b. The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

353.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

353.2(8) Falsification of client or patient records.

353.2(9) Acceptance of any fee by fraud or misrepresentation.

353.2(10) Misappropriation of funds.

353.2(11) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including improper delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

353.2(12) Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice as an athletic trainer. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

353.2(13) Violation of a regulation, rule or law of this state, another state, or the United States, which relates to the practice of athletic training.

353.2(14) Revocation, suspension, or other disciplinary action taken by a licensing authority or another state, territory, or country; or failure by the licensee to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

353.2(15) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of athletic training in another state, district, territory or country.

353.2(16) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

353.2(17) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

353.2(18) Engaging in any conduct that subverts or attempts to subvert a board investigation.

353.2(19) Failure to respond within 30 days to a communication of the board which was sent by registered or certified mail.

353.2(20) Failure to comply with a subpoena issued by the board or to cooperate with an investigation of the board.

353.2(21) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

353.2(22) Failure to pay costs assessed in any disciplinary action.

353.2(23) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

353.2(24) Failure to report another licensee to the board for any violations listed in these rules.

353.2(25) Knowingly aiding, assisting, or advising a person to unlawfully practice as an athletic trainer.

353.2(26) Failure to report a change of name or address within 30 days after the occurrence.

353.2(27) Representing oneself as a licensed athletic trainer when the person's license has been suspended or revoked, or when the person's license is lapsed or has been placed on inactive status.

353.2(28) Permitting another person to use the licensee's license for any purpose.

353.2(29) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

353.2(30) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

a. Verbally or physically abusing a patient or client.

b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

353.2(31) Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control of the United States Department of Health and Human Services.

645—353.3(152D,272C) Method of discipline. The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.

2. Suspension of license until further order of the board or for a specific period.

3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.

4. Probation.

5. Require additional education or training.

6. Require a reexamination.

7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.

8. Impose civil penalties not to exceed \$1000.

9. Issue a citation and warning.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

10. Such other sanctions allowed by law as may be appropriate.

645—353.4(272C) Discretion of board. The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring the citizens of this state a high standard of professional care;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

These rules are intended to implement Iowa Code chapters 147, 152D and 272C.

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for April is 6.00%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants Maximum 6.0%
74A.4 Special Assessments Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective April 9, 2003, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum 0.90%
32-89 days	Minimum 0.80%
90-179 days	Minimum 0.80%
180-364 days	Minimum 0.90%
One year to 397 days	Minimum 0.90%
More than 397 days	Minimum 1.20%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 2424B**EMERGENCY MANAGEMENT
DIVISION[605]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 29C.8, the Emergency Management Division hereby rescinds Chapter 9, "Iowa Emergency Plan," and adopts new Chapter 9, "Iowa Comprehensive Plan," Iowa Administrative Code.

These rules implement changes in the Iowa Comprehensive Plan resulting from a comprehensive review and rewrite of Part A: Iowa Emergency Response Plan by the Emergency Management Division with participation by those state agencies that have functional roles and responsibilities in disaster emergency response.

In compliance with Iowa Code section 17A.4(2), the Division finds that notice and public participation are impracticable because of the immediate need to implement new provisions of the Iowa Comprehensive Plan.

The Division also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these rules should be waived and these rules should be made effective upon filing with the Administrative Rules Coordinator on March 28, 2003, as they confer a benefit upon state agencies, public officials, communities and citizens of the state.

The Emergency Management Division adopted these rules on March 24, 2003.

These rules are also published herein under Notice of Intended Action as **ARC 2422B** to allow public comment. This emergency filing permits the Division to implement the emergency response provisions of the Iowa Comprehensive Plan.

These rules are intended to implement Iowa Code section 29C.8.

These rules became effective March 28, 2003.

The following amendment is adopted.

Rescind 605—Chapter 9 and adopt the following new chapter in lieu thereof:

**CHAPTER 9
IOWA COMPREHENSIVE PLAN**

605—9.1(29C) Description. Iowa Code section 29C.8 requires the administrator of the emergency management division to prepare a comprehensive plan for homeland security, disaster response, recovery, mitigation, and emergency resource management for the state. This comprehensive plan is comprised of the following parts:

Part A: Iowa Emergency Response Plan

Part B: Iowa Hazard Mitigation Plan

Part C: Iowa Disaster Recovery Plan

Part D: Iowa Critical Asset Protection Plan (confidential per Iowa Code section 22.7, Confidential records)

605—9.2(29C) Part A: Iowa Emergency Response Plan. The Part A: Iowa Emergency Response Plan is developed in accordance with Iowa Code section 29C.8, and has been adopted, published, and maintained by the division. Part A details the state government response to a wide range of natural, technological or human-caused disasters.

1. A copy of Part A will be placed in the state library located in the Ola Babcock Miller Building, 112 East Grand Avenue, Des Moines, Iowa.

2. Part A shall be distributed to state agencies and departments that have been assigned emergency functions and to all county sheriffs and county emergency management agencies.

3. The Iowa Emergency Response Plan serves as the state disaster emergency response document.

4. The division updates the plan by amendments promulgated by rule in accordance with Iowa Code chapter 17A and distributes amendments to all plan holders on the division distribution list.

5. Part A shall be available for public view at the Emergency Management Division, Hoover State Office Building, Level A, Des Moines, Iowa.

These rules are intended to implement Iowa Code section 29C.8.

[Filed Emergency 3/28/03, effective 3/28/03]

[Published 4/16/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/03.

ARC 2427B**PHARMACY EXAMINERS
BOARD[657]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy Examiners hereby amends Chapter 6, "General Pharmacy Practice," Iowa Administrative Code.

The amendment was approved during the February 19, 2003, meeting of the Board of Pharmacy Examiners.

The amendment corrects an inaccurate cross reference to another Board subrule.

Requests for waiver or variance of the discretionary provisions of Board rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the November 13, 2002, Iowa Administrative Bulletin as **ARC 2113B**. The adopted amendment is identical to that published under Notice.

The Board finds, pursuant to Iowa Code subsection 17A.5(2)"b"(2), that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator on March 26, 2003. This change confers a benefit to the public by correcting an erroneous cross reference to another Board subrule.

This amendment became effective on March 26, 2003.

This amendment is intended to implement Iowa Code sections 124.301, 126.11, 155A.13, and 155A.36.

The following amendment is adopted.

PHARMACY EXAMINERS BOARD[657](cont'd)

Amend subrule 6.15(3) as follows:

6.15(3) Noncontrolled substance returns. Prescription drugs, excluding controlled substances, may be returned and reused as authorized in 657—subrule ~~8.25(6)~~ 22.1(6).

[Filed Emergency After Notice 3/26/03, effective 3/26/03]
[Published 4/16/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/03.

ARC 2426B**PHARMACY EXAMINERS
BOARD[657]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby amends Chapter 9, "Automated Medication Distribution Systems," Iowa Administrative Code.

The amendments were approved during the February 19, 2003, meeting of the Board of Pharmacy Examiners.

The amendments correct erroneous cross references to Board rules.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

In compliance with Iowa Code subsection 17A.4(2), the Board finds that notice and public participation are unnecessary in that the amendments are within narrowly tailored categories of rules exempt, pursuant to 657—subrule 28.10(2), from the usual public notice and participation requirements.

The Board also finds, pursuant to Iowa Code subsection 17A.5(2)"b"(2), that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments should be made effective upon filing with the Administrative Rules Coordinator on March 26, 2003. These changes confer a benefit to the public by correcting erroneous cross references to other Board rules.

These amendments became effective March 26, 2003.

These amendments are intended to implement Iowa Code section 147.107.

The following amendments are adopted.

ITEM 1. Amend rule **657—9.4(79GA, ch182)**, numbered paragraph "**3**," as follows:

3. Security and confidentiality of records in compliance with ~~657—21.1~~ 657—8.16(124,155A) and 657—21.2(124,155A).

ITEM 2. Amend subrule **9.5(3)**, paragraph "**b**," as follows:

b. An AMDS shall maintain confidential patient records and information in compliance with rules ~~657—21.1~~ 657—8.16(124,155A) and 657—21.2(124,155A).

[Filed Emergency 3/26/03, effective 3/26/03]

[Published 4/16/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/03.

ARC 2423B**SECRETARY OF STATE[721]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 422B.1(5), the Secretary of State hereby amends Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

The purpose of these amendments is to add a new ballot form to the rule regarding local option sales tax elections. On June 10, 2003, Linn County will be holding an election on the question of imposing the local option sales and services tax. The county includes contiguous cities for which differing sunset dates have been set. The current rule does not include a ballot form for this situation, although the statute does not prohibit it. In order for the county to move forward with the required publication of the ballot proposition not later than April 11, 2003, the Secretary of State must prescribe a ballot form for the county to use, as required by Iowa Code section 422B.1(5).

In compliance with Iowa Code section 17A.4(2), the Secretary of State finds that notice and public participation are unnecessary because the current rules are more restrictive than the statute. The Secretary of State has a duty to provide the ballot form. The new ballot is derived from an existing form and simply adds another element.

The Secretary of State also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and these amendments should be made effective upon filing, as they confer a benefit upon the public by providing taxpayers of contiguous cities with a method to vote on separate repeal dates.

The Secretary of State adopted these amendments on March 28, 2003.

The amendments became effective March 28, 2003.

These amendments are intended to implement Iowa Code chapter 422B.

The following amendments are adopted.

ITEM 1. Amend subrule **21.801(1)**, first unnumbered paragraph, as follows:

The ballot submitted to the voters of each incorporated area and the unincorporated area of the county shall show the intended uses for that jurisdiction. The ballot submitted to the voters in contiguous cities within a county shall show the intended uses *and repeal dates, if not uniform*, for each of the contiguous cities. The ballots shall be in substantially the following form:

ITEM 2. Amend subrule **21.801(1)** by adding the following new paragraph "**k**":

k. Imposition question with differing automatic repeal dates for voters in contiguous cities:

SECRETARY OF STATE[721](cont'd)

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED?

YES ☐NO ☐

Summary: To authorize imposition of a local sales and services tax in the cities of _____, _____, (list additional cities, if applicable) at the rate of _____ percent (____%) to be effective from _____ (month/day/year) until automatic repeal date specified.

A local sales and services tax shall be imposed in the following cities at the rate of _____ percent (____%) to be effective from _____ (month/day/year) until the date specified below and the revenues from the sales and services tax are to be allocated as follows:

FOR THE CITY OF _____:

The tax shall be repealed on _____ (month/day/year).

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

FOR THE CITY OF _____:

The tax shall be repealed on _____ (month/day/year).

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

FOR THE CITY OF _____:

The tax shall be repealed on _____ (month/day/year).

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

[Filed Emergency 3/28/03, effective 3/28/03]

[Published 4/16/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/03.

ARC 2425B**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on March 18, 2003, adopted amendments to Chapter 605, "License Issuance," and Chapter 607, "Commercial Driver Licensing," Iowa Administrative Code.

Rule 761—605.25(321) is amended to remove an obsolete cross reference to rule 761—605.26(321), which formerly addressed license renewal by mail. Rules 761—605.25(321) and 761—607.37(321) are amended to permit the Department to renew a driver's license earlier than one year prior to the license expiration date for active military personnel being deployed due to actual or potential military conflict. Rule 761—607.37(321) is also amended so it is consistent with rule 761—605.25(321).

Under Iowa Code subsection 17A.4(2), the Department finds that notice and public participation to delete the reference to rule 761—605.26(321) are unnecessary because this rule does not exist. The Department finds that notice and public participation to make rule 761—607.37(321) consistent with rule 761—605.25(321) are unnecessary. Also, the Department finds that notice and public participation to allow renewal earlier than one year prior to the license expiration date for active military personnel being deployed are impracticable because notice and public participation would delay implementation of this rule change. Time is of the essence as troops are currently being deployed in large numbers.

Under Iowa Code subsection 17A.5(2)"b"(2), the Department finds that removing the obsolete rule reference and making the rules consistent will confer a benefit on the public by eliminating confusion. Also, the Department finds that allowing license renewal earlier than one year prior to the license expiration date for active military personnel being deployed will confer a benefit on these persons. Persons whose licenses are renewed pursuant to the rule change may avoid the extra administrative procedures that are necessary to obtain a new license after the old one has expired.

These amendments are intended to implement Iowa Code sections 321.186 and 321.196.

These amendments became effective March 21, 2003.

Rule-making actions:

ITEM 1. Amend rule 761—605.25(321) as follows:

761—605.25(321) License renewal.

605.25(1) ~~Except as provided in rule 605.26(321),~~ a licensee who wishes to renew a ~~noncommercial~~ license shall apply at a driver's license examination station and, if required, pass the appropriate examination.

605.25(2) A valid license may be renewed 30 days before the expiration date. If this is impractical, the department for good cause may renew a license earlier, not to exceed one year prior to the expiration date. *The department may allow renewal earlier than one year prior to the expiration date for active military personnel being deployed due to actual or potential military conflict.*

605.25(3) A valid license may be renewed within 60 days after the expiration date, unless otherwise specified.

This rule is intended to implement Iowa Code sections 321.186 and 321.196.

ITEM 2. Amend rule 761—607.37(321) as follows:

761—607.37(321) Commercial driver's license renewal.

607.37(1) To renew a commercial driver's license, the licensee shall apply at a driver's license examination station, certify eligibility and, if required, pass the appropriate test(s).

TRANSPORTATION DEPARTMENT[761](cont'd)

607.37(2) *A valid commercial driver's license may be renewed 30 days before the expiration date. If this is impractical, the department for good cause may renew a license earlier, not to exceed one year prior to the expiration date. The department may allow renewal earlier than one year prior to the expiration date for active military personnel being deployed due to actual or potential military conflict.*

607.37(3) *A valid commercial driver's license may be renewed within 60 days after the expiration date, unless otherwise specified.*

This rule is intended to implement Iowa Code sections 321.186 and 321.196.

[Filed Emergency 3/21/03, effective 3/21/03]

[Published 4/16/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/03.

ARC 2414B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455B.304(1) and 455D.11I, the Environmental Protection Commission hereby rescinds Chapter 116, "Registration of Waste Tire Haulers," Iowa Administrative Code, and adopts new Chapter 116 with the same title.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 8, 2003, as **ARC 2230B**.

The rescinded chapter is a direct adaptation of the Secretary of State's rules formerly contained in 721—Chapter 44, "Registration of Waste Tire Haulers." Through 2002 Iowa Acts, chapter 1121 (House File 2554), the responsibility for this registration process was transferred to the Department of Natural Resources as of April 22, 2002. As such, the Commission originally adopted the same rules as those contained in 721—Chapter 44 on June 17, 2002, with only minor changes, to provide continuity in the issuance of registration certificates to waste tire haulers.

New Chapter 116 is intended to provide greater effectiveness, clarity, and consistency with legislative intent and statutory authority for waste tire management regulation. The intent of the registration process is to ensure the proper management of waste tires through those persons providing waste tire hauling and disposal services. As defined by the Iowa law, a waste tire hauler is a person who transports for hire more than 40 waste tires in a single load for commercial purposes.

A public hearing was held on January 29, 2003. The Department has reviewed all comments received and prepared a responsiveness summary, which has been distributed to interested parties. No changes have been made to the rules in response to comments received; however, the Department has changed the chapter's implementation sentence to include a reference to Iowa Code sections 455B.301 to 455B.307 in order to ensure that authority for enforcement of the rules is provided.

These rules are intended to implement Iowa Code section 455D.11I (2002 Iowa Acts, chapter 1121, section 4).

These rules shall become effective May 21, 2003.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 116] is being omitted. With the exception of the change noted above, these rules are identical to those published under Notice as **ARC 2230B**, IAB 1/8/03.

[Filed 3/27/03, effective 5/21/03]
[Published 4/16/03]

[For replacement pages for IAC, see IAC Supplement 4/16/03.]

ARC 2420B**LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner adopts an amendment to Chapter 4, "Recording and Reporting Occupational Injuries and Illnesses," Iowa Administrative Code.

No waiver or variance provision is included in this rule because Iowa Code chapter 88 contains a variance provision.

This amendment adopts by reference new federal occupational safety and health record-keeping regulations. The principal reasons for adoption of this amendment are to implement Iowa Code chapter 88, comply with federal requirements, and protect the safety and health of Iowa's workers. Adoption of this amendment is required by 29 Code of Federal Regulations 1904.37 and 1952.4 and Iowa Code section 88.5(1)"a."

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 19, 2003, as **ARC 2291B**. This amendment is identical to that published under Notice of Intended Action. In compliance with Iowa Code section 88.5(1)"b," a public hearing was scheduled for March 11, 2003. No comments were received.

This amendment is intended to implement Iowa Code section 88.5.

This amendment will become effective May 21, 2003.

The following amendment is adopted.

Amend rule **875—4.3(88)** by inserting at the end thereof: 67 Fed. Reg. 77170 (December 17, 2002)

[Filed 3/28/03, effective 5/21/03]

[Published 4/16/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/03.

ARC 2405B**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on March 26, 2003, adopted amendments to Chapter 520, "Regulations Applicable to Carriers," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the February 5, 2003, Iowa Administrative Bulletin as **ARC 2263B**.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations promulgated under United States Code, Title 49, and found in 49 Code of Federal Regulations (CFR), Parts 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173,

TRANSPORTATION DEPARTMENT[761](cont'd)

177, 178 and 180. To ensure the consistency required by statute, the Department annually adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

Commercial vehicles transporting goods in interstate commerce are subject to the Federal Motor Carrier Safety Regulations on the effective dates specified in the Federal Register. Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the Federal Hazardous Materials Regulations on the effective dates specified in the Federal Register. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

Proposed federal regulations are published in the Federal Register to allow a period for public comment, and, after adoption, the final regulations are again published in the Federal Register. Each year a revised edition of 49 CFR is published, incorporating all of the final regulations adopted during the year. Although revised editions of 49 CFR are usually dated October or November, the publication is not actually available in Iowa for several months after that date.

The amendments to the Federal Motor Carrier Safety Regulations and Federal Hazardous Materials Regulations that have become final and effective since the 2001 edition of the CFR are listed in the information below. The parts affected are followed by Federal Register (FR) citations.

Amendments to the Federal Motor Carrier Safety

Regulations and Federal Hazardous Materials Regulations

Parts 390, 391, 392, 393, 395, 396, 397, 398, 399 (FR Volume 66, No. 190, Page 49867, 10-01-01)

This final rule makes technical corrections throughout 49 CFR to various rules containing outdated references to organization structure, contacts and addresses.

Part 393 (FR Volume 66, No. 250, Page 67690, 12-31-01)

This final rule amends the tire regulations to reflect the expiration of a provision allowing the overloading of tires used for the transportation of manufactured homes. Currently, tires used in the transportation of manufactured homes may be loaded up to 18 percent over the load rating marked on the sidewall of the tires or, in the absence of such a marking, 18 percent above the load rating specified in publications of certain organizations specializing in tires. Effective December 31, 2001, motor carriers are prohibited from transporting manufactured homes built on or after January 1, 2002, in interstate commerce on overloaded tires.

Part 390 (FR Volume 67, No. 41, Page 9410, 03-01-02)

This rule requires each motor carrier to file an update of the Motor Carrier Identification Report (Form MCS-150) every 24 months.

Part 172 (FR Volume 67, No. 43, Page 9926, 03-05-02)

This final rule amends the hazardous materials regulations by revising the list of hazardous substances and reportable quantities. This final rule will enable shippers and carriers to identify the affected Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) hazardous substances, comply with all applicable hazardous materials requirements and make the required notifications if a discharge occurs.

Part 172 (FR Volume 67, No. 57, Page 13680, 03-25-02)

This final rule makes an editorial correction to the March 5, 2002, final rule.

Parts 171, 172, 173, 178, and 180 (FR Volume 67, No. 64, Page 15736, 04-03-02)

This final rule amends the hazardous materials regulations by making editorial corrections.

Parts 107 and 171 (FR Volume 67, No. 122, Page 42948, 06-25-02)

This final rule amends the hazardous materials regulations by revising and clarifying the hazardous materials safety rule-making and program procedures. In addition, it creates a new part that contains defined terms used in Research and Special Program Administration's procedural regulations.

Parts 172 and 177 (FR Volume 67, No. 134, Page 46123, 07-12-02)

This final rule amends the hazardous materials regulations by requiring shippers and carriers to retain for a period of 375 days after the date the hazardous material is accepted by the carrier a copy of each hazardous material shipping paper or an electronic image.

Part 390 (FR Volume 67, No. 147, Page 49742, 07-31-02)

This final rule revises the Commercial Driver's License Program. The Motor Carrier Safety Improvement Act of 1999 mandates these revisions. They are designed to enhance the safety of commercial motor vehicle (CMV) operations on the nation's highways by ensuring that only safe drivers operate CMVs.

Parts 107, 171, 172, 173, 177, 178, and 180 (FR Volume 67, No. 153, Page 51626, 08-08-02)

This final rule amends the requirements of the hazardous materials regulations applicable to the maintenance, requalification, repair, and use of DOT specification cylinders. In addition, the Research and Special Programs Administration (RSPA) is adopting changes to revise the requirements for approval of cylinder requalifiers, independent inspection agencies, and nondomestic chemical analysis and tests.

Further, RSPA is removing authorization for the manufacture of DOT specification cylinders made with aluminum alloy 6351-T6. This action is being taken to simplify the regulations, respond to petitions for rule making, address recommendations of the National Transportation Safety Board, and enhance the safe transportation of hazardous materials in cylinders.

Part 393 (FR Volume 67, No. 154, Page 51770, 08-09-02)

This final rule establishes pass/fail criteria for use with performance-based brake testers which measure the braking performance of commercial motor vehicles.

Part 393 (FR Volume 67, No. 157, Page 53048, 08-14-02)

This final rule makes a technical correction to the August 9, 2002, rule.

Parts 171, 172, 173, 177 and 178 (FR Volume 67, No. 157, Page 53118, 08-14-02)

This final rule revises the transportation requirements for infectious substances, including regulated medical waste to: adopt defining criteria and packaging requirements consistent with international standards; revise the current broad exceptions for diagnostic specimens and biological products; and authorize bulk packaging options for regulated medical waste consistent with requirements in international standards and DOT exemptions. These revisions will ensure an acceptable level of safety for the transportation of infectious substances and facilitate domestic and international transportation.

TRANSPORTATION DEPARTMENT[761](cont'd)

Parts 171, 172, 173, 177 and 178 (FR Volume 67, No. 166, Page 54967, 08-27-02)

This final rule corrects the effective dates for a final rule revising transportation requirements for infectious substances published in the Federal Register on August 14, 2002.

Part 392 (FR Volume 67, No. 167, Page 55162, 08-28-02)

This interim final rule amends the regulations to require that a motor carrier subject to the registration requirements under 49 U.S.C. 13902 may not operate a commercial motor vehicle in interstate commerce unless it has been registered with the Federal Motor Carrier Safety Administration. These motor carriers are further prohibited from operating beyond the scope of their registration. If an unregistered carrier's motor vehicle is discovered in operation or is being operated beyond the scope of the carrier's registration, such motor vehicle will be placed out of service and the carrier may be subject to additional penalties.

Part 172 (FR Volume 67, No. 176, Page 57635, 09-11-02)

This final rule makes a technical change to the hazardous materials table.

Part 107 (FR Volume 67, No. 179, Page 58343, 09-16-02)

This final rule amends the regulation concerning registration of persons who transport or offer for transportation in commerce certain categories and quantities of hazardous materials. Research and Special Programs Administration (RSPA) is adopting the North American Industry Classification System to determine whether an entity is a small business, consistent with actions taken by the Small Business Administration. The RSPA is also revising the requirements to permit registration over the Internet and to authorize the use of additional credit cards to pay the registration fee.

Parts 392 and 393 (FR Volume 67, No. 188, Page 61212, 09-27-02)

This final rule revises the regulations concerning protection against shifting and falling cargo for commercial motor vehicles engaged in interstate commerce. The new cargo securement standards are based on the North American Cargo Securement Standard Model Regulations.

Parts 105, 107, 171, 172, 173, 177, 178, and 180 (FR Volume 67, No. 188, Page 61006, 09-27-02)

This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the hazardous materials regulations. The intended effect of this rule is to enhance the accuracy and reduce the misunderstandings of the regulations. The amendments contained in this rule do not impose new requirements.

Parts 173 and 177 (FR Volume 67, No. 189, Page 61287, 09-30-02)

This final rule extends the compliance dates and makes minor corrections for certain requirements adopted in the final rule published on August 8, 2002, which amended requirements applicable to the maintenance, requalification, repair, and use of DOT specification cylinders. Research and Special Programs Administration (RSPA) is taking action in response to appeals stating that the October 1, 2002, effective date is unreasonable. This action provides additional time, until May 30, 2003, for RSPA to fully evaluate and determine the merits of issues raised by appellants concerning these requirements and their requests for clarification of certain other requirements.

The other amendment to this chapter updates a definition. This change is necessary to reflect renumbering of the federal regulations.

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation's highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 321.

These amendments will become effective May 21, 2003.

Rule-making actions:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 390-399 (October 1, ~~2001~~ 2002).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2001~~ 2002).

ITEM 3. Amend rule **761—520.2(321)**, definition of “rules adopted under this section concerning physical and medical qualifications,” as follows:

“Rules adopted under this section concerning physical and medical qualifications” as used in Iowa Code section 321.449(5) and Iowa Code section 321.450, unnumbered paragraph 2, means the regulations in 49 CFR ~~391.11(b)(6)~~ 391.11(b)(4) and 49 CFR Part 391, Subpart E.

[Filed 3/26/03, effective 5/21/03]

[Published 4/16/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/03.

ARC 2406B

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on March 26, 2003, adopted an amendment to Chapter 529, “For-Hire Interstate Motor Carrier Authority,” Iowa Administrative Code.

Notice of Intended Action for this amendment was published in the February 5, 2003, Iowa Administrative Bulletin as **ARC 2264B**.

The Code of Federal Regulations was updated in October 2002, and the Department needs to cite the current version in these rules. No changes to the federal regulations have occurred.

This amendment is identical to the one published under Notice of Intended Action.

This amendment is intended to implement Iowa Code chapter 327B.

This amendment will become effective May 21, 2003.

TRANSPORTATION DEPARTMENT[761](cont'd)

Rule-making action:

Amend rule 761—529.1(327B) as follows:

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, ~~2001~~ 2002, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or through the Internet at <http://www.fmcsa.dot.gov>.

[Filed 3/26/03, effective 5/21/03]

[Published 4/16/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/16/03.

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